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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 2949/2023

MS. X

.....Petitioner

Through: Mr. Prashant Manchanda, Mr. Mohit Saroha, Ms. Dimpy Chhilar, Mr. Angad Singh, Mr. Arun Kanwa and Mr. Baibhav, Advocates.

versus

STATE OF NCT OF DELHI AND OTHERSRespondents

Through: Ms. Rupali Bandhopadhyya, ASC with Mr. Abhijeet Kumar, Advocate for R-1.
SI Dipika, P.S. Adarsh Nagar.
Mr. Anil Mittal, Mr. Shaurya Mittal and Mr. Atul Chauhan, Advocates for R-4.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

02.05.2025

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1. The present petition has been filed under Article 226 of the Constitution of India, 1950, seeking the following reliefs:

“i) Issue a writ mandamus of direction of the order of like nature, thereby directing the respondents no. 2 & 3 to restore the investigation of the case FIR No.0002/2023 P.S. Adarsh Nagar by passing the appropriate action for illegal transfer of the above said case to the respondent no. 4 by the respondent no.2;

ii) Issue a writ mandamus of direction of the order of like nature, thereby calling the explanation from the Respondents no. 2 & 3 for non-registration of the regular F.I.R. under Section

376,354,506,509,420,323,120-B IPC and other relevant provision of IPC apart from the Sections under SC & ST Act.

iii) Issue a writ mandamus of direction of the order of like nature, thereby directing the SHO P.S. Adarsh Nagar to continue the investigation of the above said case within the jurisdiction of P.S. Adarsh Nagar, to restore the investigation with Respondent No.3, registering the FIR with P.S., Adarsh Nagar to ensure the prompt, fair and effective investigation and to ensure the fair and effective trial.”

2. The background of the present petition is that the Petitioner lodged a complaint dated 24th August, 2023 with P.S. Adarsh Nagar, District North West, alleging that Aman Garg had forcefully established physical relations with her under the false promise of marriage. Based on this complaint, Zero FIR No. 0002/2023 under Sections 376/506/509 of the Indian Penal Code, 1860¹ was registered at P.S. Adarsh Nagar, District North West, Delhi, and the matter was assigned to ASI Ved Prakash for investigation. During the course of investigation, the Petitioner’s statements under Sections 161 and 164 of the Code of Criminal Procedure, 1973² were recorded, and she also underwent a medical examination.

3. On the basis of the Petitioner’s statement, investigation in the FIR No. 0002/2023 was transferred to Commission Gautam Budh Nagar, Uttar Pradesh. Upon receipt of the FIR, a fresh FIR No. 790/2024 was registered under Sections 376/506/509 of IPC at P.S. Sector-39, Noida, Uttar Pradesh, and assigned to SI Rakesh Sharma. In connection with the investigation and for recording the Petitioner’s statement, the IO made several attempts to contact her on her mobile number, however, she did not appear for further

¹ “IPC”

² “Cr.P.C”

investigation. The Petitioner communicated her unwillingness to give a statement to the U.P. Police *via* WhatsApp to the IO of P.S. Sector-39, Noida, U.P.

4. Mr. Prashant Manchanda, counsel for Petitioner, argues that once FIR No. 0002/2023 was registered at P.S. Adarsh Nagar, there was no justification for transferring the investigation to P.S. Sector-39, Noida, U.P., especially when the FIR disclosed the commission of a cognizable offence within the territorial jurisdiction of P.S. Adarsh Nagar. In support of this, he relies on the Petitioner's statement as noted in the FIR wherein she specifically alleged that the accused had committed the offence at her residence in Adarsh Nagar. Although certain incidents also occurred in Noida, he argues that P.S. Adarsh Nagar should have concluded the investigation in accordance with Section 178(d) of Cr.P.C.

5. On the other hand, Ms. Rupali Bandhopadhyaya, ASC, contends that the initial incident of sexual assault occurred in Uttar Pradesh, and therefore, the registration of a Zero FIR at P.S. Adarsh Nagar was justified. She further points out that while a notice under Section 160 of Cr.P.C. had been issued, in the meantime, the Petitioner filed the present writ petition. She informs that the investigation of FIR No. 790/2024 was transferred back to P.S. Adarsh Nagar, Delhi on 18th December, 2023, but was again re-transferred to P.S. Sector-39, Noida on 18th February, 2024 by the DCP, District North-West, Delhi. Presently, the matter is being investigated by SI Anuj Kumar Sharma at P.S. Sector-39, Noida. She further submits that in the Petitioner's statement recorded under Section 164 Cr.P.C., there was no specific

allegation regarding any incident occurring within Delhi.

6. The Court has perused the status report filed by DCP/Police HQ Commissionerate, Noida (Respondent No. 4) wherein it is stated that the investigation is presently stalled due to the Petitioner's non-cooperation. The Delhi Police, in its status report, has noted that since the first incident occurred in the area of Ghaziabad, U.P., the registration of a Zero FIR was appropriate, and following the Petitioner's statements under Sections 161 and 164 Cr.P.C., the matter was transferred for investigation.

7. Before addressing the main issue, it is necessary to clarify the concept of a "Zero FIR". As per Section 154 Cr.P.C., when any information pertaining to a cognizable offence is received, it is mandatory for the police to register an FIR, as reinforced by the Supreme Court in *Lalita Kumari v. State of U.P.*³ However, if the crime has occurred outside the territorial jurisdiction of the Police Station receiving the complaint, then a Zero FIR must be registered and subsequently transferred to the competent Police Station which has territorial jurisdiction over the offence. Thus, when a cognizable offence is disclosed, the location of the crime becomes irrelevant for the purpose of registration, and it is incumbent on the police to promptly transfer the complaint for appropriate investigation.

8. In the present case, a careful examination of the material placed on record reveals that one of the incidents of alleged forced sexual assault occurred at the Petitioner's residence situated in Adarsh Nagar, Delhi. This fact alone is significant, as it confers territorial jurisdiction upon P.S. Adarsh

³ AIR 2014 SC 187

Nagar to entertain the complaint and register a regular FIR. In this case, rather than exercising its jurisdiction, P.S. Adarsh Nagar proceeded to register a Zero FIR and transferred the matter to the police in Noida, U.P. Such action indicates a failure on part of the concerned police authorities to adhere to their statutory responsibility as enshrined under Section 154 Cr.P.C. The act of transferring the case to another state, when an offence also clearly occurred within its own jurisdiction, reflects a mechanical approach, which undermines the gravity of the allegations made by the Petitioner. In matters involving allegations of sexual assault, prompt and jurisdictionally appropriate police action is not merely a procedural formality but a foundational requirement for securing effective investigation and safeguarding the complainant's rights.

9. Furthermore, the fact that one of the alleged incidents occurred within the territorial limits of P.S. Adarsh Nagar, in itself, was sufficient cause to register a regular FIR and initiate investigation from that police station. The registration of a Zero FIR instead of a regular FIR in this context not only delayed the investigative process but potentially compromised the integrity of the evidence collection and investigation. The lapse in promptly recording a regular FIR could have led to the loss of material evidence. Such procedural infirmities carry the risk of weakening the prosecution's case.

10. Accordingly, this Court finds merit in the contentions of the Petitioner, and is inclined to direct the Respondents No. 2 and 3 to register a regular FIR instead of a Zero FIR and conduct investigation. Consequently, Respondent No. 4 is directed to hand-over the documents related to FIR No.

790/2024 was registered under Sections 376/506/509 of IPC at P.S. at Sector-39, Noida, U.P. to Respondents No. 2 and 3 for conducting investigation.

11. The present petition is disposed of.

SANJEEV NARULA, J

MAY 2, 2025
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