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

+ **W.P.(CRL) 1560/2017**

SADHAN HALDAR

..... Petitioner

Through None

Versus

THE STATE NCT OF DELHI & ORS

..... Respondents

Through: Mr. Rahul Mehra, SC (Crl.) with
Mr. Chaitanya Gosain and Mr. Tushar
Sannu, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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28.11.2018

1. The matter was passed over twice to await the presence of Ms. Neena Malhotra, learned counsel for the petitioner. However, neither the petitioner, nor his advocate are present even thereafter.
2. This is an unfortunate case where the 13 years old daughter of the petitioner had gone missing on 21.07.2014 and she has yet to be recovered. The petitioner had filed the present petition in the month of May, 2017 on which notice was issued on 23.05.2017. On the very first date, the Court had taken note of the fact that the minor daughter of the petitioner, Sheela Haldar was missing for 2 ½ years and accordingly, the State was directed to transfer the investigation to the AHTU, Crime Branch within one week along with all the case diaries, papers etc.
3. On enquiring from Mr. Rahul Mehra, SC (Crl.) as to when was the

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matter actually received by the AHTU, Crime Branch, he states on instructions that the case diaries and papers in the matter was received by the Unit only on 7th July, 2017. In other words, the Delhi Police lost precious six weeks in transferring the matter to the AHTU, Crime Branch which is absolutely unacceptable. The State is directed to file an affidavit explaining *inter alia* failure on its part to adhere to the prescribed timeline for transferring the matter to the AHTU in such a critical case where the minor daughter of petitioner had been missing for 2 ½ years even as on 23.05.2017.

4. Further, an explanation is required for the inaction on the part of local police w.e.f. 28.07.2014, the date when the petitioner had first lodged an FIR at PS Geeta Colony, till 23.05.2017, when the present petition was listed before this Court and the investigation was transferred to the AHTU, Crime Branch. It is therefore, deemed appropriate to direct the DCP (East) to file an affidavit within two weeks explaining the action taken by the local police to trace the missing girl from the date of registration of the FIR on the complaint of the petitioner, till 23.05.2017.

5. A perusal of the paper book shows that several Status Reports have been filed by the AHTU, Crime Branch from time to time but at the end of the day, the petitioner's daughter remains untraceable. By now almost four years have lapsed since the date the petitioner's daughter had gone missing.

6. Pertinently, one Aashish, son of Sh. Prakash Sharma is the one against whom a finger has been pointed by the petitioner. Both the

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parties were residing in the same locality. Aashish was 27 years of age at the relevant point of time. The Status Reports reveal that Ashish's father had issued a public notice on 05.08.2016, disowning him due to his bad conduct/misbehaviour. The Status Report records that Aashish's father and brother had gone in for a polygraphy test but the father was not found to be truthful. He had however, declined to undergo a Narco Analysis test on the ground that he was in depression as one of his daughters had expired due to cancer and another unmarried daughter was suffering from the same disease and he was busy attending to her.

7. The latest Status Report filed by the ACP, AHTU, Crime Branch refers to some more steps taken to trace the missing girl including approaching local cable networks to broadcast her details and photograph, issuing of hue and cry notices in Delhi, sending teams to Delhi, Aligarh and Chandigarh, approaching various shelter homes for information. Lastly, an award of Rs.1 lacs has been declared for the public to step forward to provide some clues leading to the recovery of the petitioner's missing daughter.

8. We are quite surprised that a specialised unit like the AHTU, Crime Branch has not been able to crack the present case for a year and a half. AHTU, Crime Branch, Delhi shall take the instant matter further by constituting a SIT which shall be supervised by an officer of DCP rank to trace the petitioner's missing daughter. Status Report shall be filed by the SIT within four weeks from today.

9. We are also of the opinion that the matter needs to be looked at

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from a larger perspective. We are informed that several minors are going missing in Delhi and they are not traceable at all or traced after months together, leaving their parents and loved ones heartbroken and making them run from pillar to post to locate them. In this duration, the missing children themselves are exposed to life threatening situations, apart from all kinds of exploitation by racketeers and unscrupulous elements in the society.

10. To have a fair idea as to the number of children that have gone missing from the NCT of Delhi in the past three years, the DCP, PHQ, Legal Cell is directed to file a separate affidavit furnishing *inter alia*, the necessary data in a tabulated form on a District-wise basis from January, 2016 till October, 2018 along with the details of the number of children missing, the number of children traced and reunited with their parents / families and the number and vintage of cases that are pending investigation. Needful shall be done within four weeks.

11. In the course of submissions made, Mr. Rahul Mehra, SC (Crl.) has handed over a copy of the revised Standing Order No.252 which spells out the duties of the police regarding missing persons and unidentified dead-bodies. The said Standing Order lays down that certain steps that are to be taken by the police immediately on receipt of information regarding missing persons, that are 25 in number. Surprisingly, none of the steps recommended to be taken, have a fixed timeline. We are of the opinion that if timeline remains open-ended, then the stress laid in the Guidelines on the initial efforts to be made in the first 15 days, loses its significance completely.

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12. In our opinion, the first 48 hours reckoned from the time when a person goes missing, is critical but the Standing Order No.252 is silent on this aspect. Learned Standing Counsel (Crl.) shall obtain instructions from the seniormost officers in Delhi Police as to why has no timeline

been prescribed in the Guidelines for steps to be taken within 48 hour, reckoned from the date of knowledge of the person going missing. An affidavit of an officer of the rank of a Special CP Delhi Police, as may be designated by the Commissioner of Police, be filed on this aspect within three weeks. Before doing so, the aforesaid aspect must be examined threadbare.

13. Having regard to the wider ramifications of this issue, it is also deemed appropriate to issue notice, without Process Fee, to the Central Government through the Standing Counsel with a direction that the learned ASG shall remain present to assist the Court, returnable on 14th December, 2018. The notice shall enclose a copy of this order for persual.

14. As neither the petitioner, nor his counsel are present today, the State shall ensure the presence of the petitioner on the next date.

15. List on 14th December, 2018 and 22nd January, 2019

DASTI under the signatures of the Court Master.

HIMA KOHLI, J

MANOJ KUMAR OHRI, J

NOVEMBER 28, 2018/sm

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