

CR No. 453/2023  
Ishwar Singh Vs. State

मधु जैन  
MADHU JAIN  
प्रधान जिला एवं सत्र न्यायाधीश  
Principal District & Sessions Judge  
कक्ष नं. 500 पंचवी मंजिल  
Room No. 500, 5th Floor  
जिला दक्षिण पूर्व  
District South East  
साल्ट कोर्ट, नई दिल्ली  
Salt Court, New Delhi

19.08.2023

Present: Revisionist with learned counsel Shri Vaibhav Suri.  
Shri Salim Khan, Ld. Chief Public Prosecutor for  
State.

Arguments heard.

Learned counsel for the revisionist submits that revisionist is in Delhi Police service for the last two decades and he never got any adverse remarks in his entire career and merely because one subordinate officer chose not to appear on the summons of the court is no ground to pass the remarks against him or to call for any explanation from the Commissioner of Police, Delhi. Learned counsel has relied upon the judgment in *Sanjay Kumar Sain Vs. State of NCT of Delhi, W. P. Crl. 76/2023* passed by Delhi High Court on 01.03.2023.

Learned Chief Public Prosecutor for State submits that his submissions be also recorded that on several occasions even he has also been called in the court by the learned Presiding Officer for no fault of him.

I have heard the arguments and perused the record.

In the case of *Ajit Kumar Vs. State (NCT of Delhi) in W. P. (CRL.) 2236/2022 decided by the Hon'ble High Court of Delhi on 22.11.2022*, the Hon'ble High Court of Delhi observed in para Nos. 28, 35, 36, 37 and 42 observed as under:

28. A Co-ordinate bench of Hon'ble Delhi High Court in *Rakesh Chand V. State 2015 SCC OnLine Del 14193* while dealing with similar facts at hand, after considering law laid down by Hon'ble Supreme Court of India held as under:



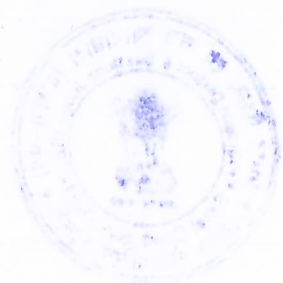
"23. Even if there was a lapse on the part of the petitioners as police officers, what the Trial Court was required to do was to record such lapse and indicate that in future such lapses should not occur. Straightway directing the administrative authorities/ superior police authorities to take legal/departmental action against the petitioners only meant that the petitioners were also convicted along with the accused persons in the present case and for proper sentencing, their cases were sent to the superior police authorities. This procedure is not mandated either by law or practice."

35. This Court also, in *Rakesh Chand Vs. State (supra)* had expressed similar views regarding restraint to be observed by the judges while passing comments on the conduct of officers/authorities. The observation is as under:

"2. While dealing with the task of administering justice, a Judge, no doubt has to be acting judicially and giving expression to his views but he ought to be circumspect while commenting on the conduct of some. The line of discretion is not to be overstepped. The calm and sangfroid of a Judge should be reflected in every judgment, every order; rather every part of any judgment or order. The immunity which is enjoyed by a judicial officer carries with it the duty of circumspection. A Judge ought to know that any statement against any authority of the Government or any organ of the Government or any person incharge of investigation or discharging executive functions can lacerate, slash and mutilate his reputation into tatters and cause irreparable harm. It may prejudicially affect the career of such persons. What is required to be taken care of is that nobody ought to be condemned without being heard. The prejudicial effect on somebody against whom a stricture is passed cannot be assessed only in terms of the immediate damage to him. It has the potential of eroding the confidence of public on such person or institution. A judge must be wary of such cascading effect of any statement/stricture made by him while delivering judgment."

36. The Hon'ble Supreme Court in *K.H. Siraj v. High Court of Kerala (2006) 6 SCC 395* had pointed the following qualities of a good judicial officer:

"57. ...A Judicial Officer must, apart from academic knowledge, have the capacity to communicate his thoughts, he must be tactful, he must be diplomatic, he



must have a sense of humour, he must have the ability to defuse situations..."

37. Every word forming part of a judicial order forms permanent record. Use of denigrating remarks against anyone, especially against police officials impeaching their credibility and questioning their sense of dedication towards duty, is not the best course adopted by a judicial officer, that too when the same is not required for the adjudication of the case before the Court. Such criticism may have a devastating effect on the professional career of an officer. It is also bound to have everlasting affect on the reputation of a person. This Court is conscious of the fact that police officers are expected to be at the desired place and desired time with utmost efficiency, both by the general public as well by the Courts. Though the police officers are duty bound to discharge their responsibilities with utmost conviction, the practical difficulties which are faced by them cannot be overlooked and disregarded by the Courts. At the same time, such regard by the courts can not by any stretch of imagination or interpretation be take to be lack of power of the court to pass order regarding the power to point out any irregularity omission or commission of any act as directed by the Court, or any disobedience to obey the directions of the Court. This Court rather vide this order wants to convey that judicial strictures against anyone need to be passed with utmost circumspection. The judicial power comes with utmost responsibility to exercise adjudicatory liberty to express oneself. Judicial strictures against a police officer to the extent as expressed in the present case are problematic though every disapproval expressed by exercise of adjudicatory liberty of expression may not fall in the realm of lack of judicial restraint.

42. Undoubtedly and there can be no two views about this that judicial orders and directions passed to ensure rule of law in society have to be obeyed and respected to achieve cherished goal of independence of judiciary, however, undesirable judicial strictures that penalize without enquiry, stigmatize without relevant proceedings with remedy of only being expunged as we have hierarchical system of judiciary have to be avoided. Social memories that stigmatize a person in society or in one's department or social circles are often as permanent as the judgments and orders.

Reliance is also placed upon the judgments in *Sanjay*

*Kumar Sain Vs. State of NCT of Delhi (supra); Dr. Dilip Deka &*

*Anr. Vs. State of Assam & Anr., (1996) 6 SCC 234; State of West*




*Bengal Vs. Mir Mohammad Omar & Ors (2000) 8 SCC 382 and A. M. Mathur Vs. Pramod Kumar Gupta (1990) 2 SCC 533.*

Perusal of record shows that the revisionist in his revision has given a tabulated chart which shows that he has been summoned not once or twice but about more than 300 times in the court and the plea of the revisionist is that in every case emanating from his police station instead of designated investigating officer it is the revisionist who is called for addressing the court queries on each and every case. If such a practice is adopted and followed by all the courts then it will be very difficult for the police officials to maintain law and order in their respective areas as they will be spending whole of their time in the courts. Not only this practice is to be deprecated but we must also stop this practice.

In view of above discussion, the impugned order dated 18.05.2023 calling for the explanation from the Commissioner of Police, Delhi is set aside and the extra judicial remarks with respect to the revisionist in the said order passed in the case titled as State Vs. Magan @ Bhuri FIR No. 10/2020 PS Badarpur are expunged. The revision petition is allowed in aforesaid terms. Copy of this order be given dasti to the revisionist.

TCR along with the copy of this order be sent to the Ld. Trial Court. Revision file be consigned to Record Room.



  
(MADHU JAIN)  
Principal District & Sessions Judge  
South East District, Saket Courts  
New Delhi: 19.08.2023