

आकांशा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 03, द्वितीय तल
Court No. 03, 2nd Floor
कडकडडूमा कोर्ट, दिल्ली-32
Karkardooma Courts, Delhi-32

FIR No. 008110/2020
P.S.: Shakarpur
U/s: 379 IPC
State Vs. Unknown

06.08.2020

Fresh application for release of vehicle bearing No. DL-14-SL-0211 (Yamaha FZ) on superdari, on behalf of applicant, received by way of email.

Present : Ld. APP for the State is stated to be present through Video Conferencing.

None for applicant in person.

IO/SHO of PS concerned to file reply on 07.08.2020.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांशा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 03, द्वितीय तल
Court No. 03, 2nd Floor
केलकउडूमी कोर्ट, दिल्ली-32
Kalkandemi Courts, Delhi-32

FIR No.0072/2019
P.S.: Krishna Nagar
U/s: 420 IPC
State Vs. Shyam Mittal

06.08.2020

Present : Ld. APP for the State is present through Video Conferencing.

Ld. Counsel for accused is present through Video Conferencing.

This is the second bail application U/s 437 Cr.P.C on behalf of accused Shyam Mittal. Application perused. Reply of IO has also been received and perused.

Issue notice to IO/SHO concerned, returnable for NDOH, to appear in person/through Video Conferencing.

Also issue notice to the complainant of the present case through IO to appear in person/through Video Conferencing, returnable for NDOH.

Re-list on 07.08.2020 for further proceedings.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आंकंशा वीर
AAKANKSHA VIYAS
महानगर न्यायाधीश (पूर्व)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 05, द्वितीय तल
Court No. 05, 2nd Floor
कडकडूमी कोर्ट, दिल्ली-37
Kadkadumi Courts, Delhi-37

FIR No.0072/2019
P.S.: Krishna Nagar
U/s: 420/34 IPC
State Vs. Mohd. Rijwan

06.08.2020

Second application for bail U/s 437 Cr.P.C. on behalf of accused, received by way of email.

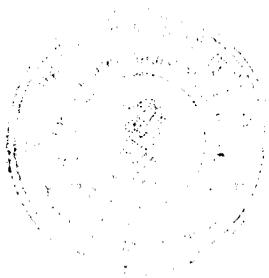
Present : Ld. APP for the State is present through Video Conferencing.

Ld. Counsel for accused is present through Video Conferencing.

Issue notice to IO/SHO concerned, returnable for NDOH, to appear in person/through Video Conferencing alongwith reply.

Also issue notice to the complainant of the present case through IO to appear in person/through Video Conferencing, returnable for NDOH.

Re-list on 07.08.2020 for further proceedings.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांशा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्व)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 03, द्वितीय तल
Court No. 03, 2nd Floor
कडकडडूमा कोर्ट, दिल्ली-32
Karkardooma Courts, Delhi-32

FIR No.0072/2019
P.S.: Krishna Nagar
U/s: 420 IPC
State Vs. Sartaj Ali

06.08.2020

Second application for bail U/s 437 Cr.P.C. on behalf of accused, received by way of email.

Present : Ld. APP for the State is present through Video Conferencing.

Ld. Counsel for accused is present through Video Conferencing.

Issue notice to IO/SHO concerned, returnable for NDOH, to appear in person/through Video Conferencing alongwith reply.

Also issue notice to the complainant of the present case through IO to appear in person/through Video Conferencing, returnable for NDOH.

Re-list on 07.08.2020 for further proceedings.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांक्षा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 05, द्वितीय तल
Court No. 05, 2nd floor
काडकडडूना कोर्ट, दिल्ली-32
Karkardooma Courts, Delhi-32

FIR No.343/2020
P.S.: Krishna Nagar
U/s: 307/34 IPC & 25/27 Arms Act
State Vs. Dinesh

06.08.2020

Present : Ld. APP for the State is present through Video Conferencing.

None for applicant in person.

The present application for release of vehicle bearing No. DL-13SS 0210 (Bullet Bike) on Superdari has been filed by the applicant.

Reply has been filed under the signature of SI Dhananjay Dubey wherein it is submitted that there is no objection for the release of vehicle to the **rightful owner** only.

In view of the no objection of IO, oral arguments of Ld. Counsel for applicant are dispensed with.

The Hon'ble High Court has observed in *Manjit Singh V. State* CRL. M.C. 4485/2013 and CRL. M.A. No. 16055/2013 decided on 10.09.2014 as follows:

"Vehicles"

1. Vehicles involved in an offence may be released to the rightful owner after preparing detailed panchnama; taking photographs of the vehicle; valuation report; and a security bond.
2. The photographs of the vehicle should be attested and countersigned by the complainant, accused as well as by the person to whom the custody is handed over.
3. The production of the vehicle should not be insisted upon during the trial. The panchnama and photographs alongwith the valuation report should sufficient for the purpose of evidence.
4. Return of vehicles and permission for sale thereof should be general norm rather than the exception.

In these circumstances the aforesaid vehicle be released to the **rightful owner only after verifying the ownership of the vehicle in question** subject to satisfaction of the IO/ SHO about the following conditions:

1. IO shall prepare detailed panchnama mentioning the colour, appearance, Engine no. Chassis No., registered owner and other necessary details of the vehicle;
2. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chassis number of the vehicle.
3. The photographs should be attested and counter signed by the complainant, accused and rightful owner.
4. IO shall get the vehicle valued from a proper valuer and shall take a valuation report in this regard from the valuer.
5. IO shall take the security bond of appropriate value from the rightful owner, taking into consideration the valuation report.

Copy of this order be sent to Ld. Counsel on his email ID and be also sent to the SHO PS concerned for compliance.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांशा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 05, द्वितीय तल
Court No. 03, 2nd Floor
कडकडूमा कोर्ट, दिल्ली-32
Katkardooma Courts, Delhi-52

FIR No.314/2020
P.S.: Krishna Nagar
U/s: 356/379/34 IPC
State Vs. Deepak @ Deepu

06.08.2020

Present : Ld. APP for the State is present through Video Conferencing.
Ld. Counsel for accused is present through video conferencing.

An application for grant of bail u/s 437 Cr.P.C is moved on behalf of accused Deepak Dutt.

Bail application perused. Reply filed by IO also perused.

Ld. Counsel for the accused has submitted that accused is in JC since 20.07.2020. He has further submitted that accused has been falsely implicated in the present case. Ld. Counsel has also submitted that accused is the sole bread earner of his entire family. Accused is not a previous convict. Accused is ready to furnish reliable surety.

Ld. APP for the State has opposed the bail application of the accused stating that the allegations are serious in nature. Ld. APP has also submitted that accused is a habitual offender. Further, case property has not been recovered and co-accused has also not been apprehended.

Heard both the parties.

File perused. In the present case, the accused was formally arrested, after he was arrested in another FIR pertaining to PS: Jagat Puri on the basis of his disclosure statement. In the present case, accused is in J/C since 20.07.2020. It is not the case of the IO in his reply, that the accused is required for further investigation. Further, the aspect of de-congestion of jails in light of Covid-19 pandemic is also a relevant consideration. Keeping in view the facts and circumstances of the case, accused is admitted to Court bail on furnishing of personal bond in the sum of **Rs. 15,000/- with one surety in the like amount** subject to the conditions that :-

1. Accused shall not indulge in similar offence as that of which he is the accused.
2. He will not try to tamper with the evidence and will not try to contact the complainant during the pendency of the case.

Accordingly, bail application disposed off. Copy of this order be sent to

Ld. Counsel for accused on his email ID.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

अक्रिशा वयास
AAKANKSHA VYAS
महानगर दणडाधकारो (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 05, द्वितीय तल
Court No. 05, 2nd Floor
कडकडडूमा कोर्ट, दिल्ली-32
Karkardooma Courts, Delhi-32

FIR No.017123/20
P.S.: Krishna Nagar
U/s: 379 IPC
State Vs. Unknown

06.08.2020

Present : Ld. APP for the State is present through Video Conferencing.
None for applicant in person.

The present application for release of vehicle **Motorcycle No. DL-13-SN-4050** on Superdari has been filed by the applicant.

Reply has been filed under the signature of HC Adesh Kumar wherein it is submitted that there is no objection for the release of vehicle to the **rightful owner** only.

In view of the no objection of IO, oral arguments of Ld. Counsel for applicant are dispensed with.

The Hon'ble High Court has observed in **Manjit Singh V. State CRL. M.C. 4485/2013 and CRL. M.A. No. 16055/2013 decided on 10.09.2014** as follows:

"Vehicles"

1. Vehicles involved in an offence may be released to the rightful owner after preparing detailed panchnama; taking photographs of the vehicle; valuation report; and a security bond.
2. The photographs of the vehicle should be attested and countersigned by the complainant, accused as well as by the person to whom the custody is handed over.
3. The production of the vehicle should not be insisted upon during the trial. The panchnama and photographs alongwith the valuation report should sufficient for the purpose of evidence.
4. Return of vehicles and permission for sale thereof should be general norm rather than the exception.

In these circumstances the aforesaid vehicle be released to the **rightful owner only after verifying the ownership of vehicle in question** subject to satisfaction of the IO/ SHO about the following conditions:

1. IO shall prepare detailed panchnama mentioning the colour, appearance, Engine no. Chassis No., registered owner and other necessary details of the vehicle;
2. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chassis number of the vehicle.
3. The photographs should be attested and counter signed by the complainant, accused and rightful owner.
4. IO shall get the vehicle valued from a proper valuer and shall take a valuation report in this regard from the valuer.
5. IO shall take the security bond of appropriate value from the rightful owner, taking into consideration the valuation report.

Copy of this order be sent to Ld. Counsel on his email ID and be also sent to the SHO PS concerned for compliance.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांशा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 03, द्वितीय तल
Court No. 03, 2nd Floor
कडकडडूमा कोर्ट, दिल्ली-32
Karkardooma Courts, Delhi-32

FIR No.108/2019
P.S.: Shakarpur
U/s: 365/366/506/384/193/196/467/468/471/120B/201/34 IPC
State Vs. Shajad Khan and ors.

06.08.2020

Present : Ld. APP for the State is available for hearing through Video Conferencing.

Ld. Counsel for accused is present through Video Conferencing.

I have perused the application. Ld. Counsel for the applicant submitted that the present applicant/accused was declared P.O. on 29.04.2020. She further submitted that charge-sheet has already been filed in the Court thereafter and the present applicant/accused has already been granted anticipatory bail. Copy of anticipatory bail order dated 31.07.2020 passed by Ld. ASJ Ms. Navita Kumari Bagga is also annexed with the application.

At this stage, Ld. Counsel for the applicant submits that she wishes to withdraw the present application. A formal application for withdrawal of the present application has been received on the Court email ID. In view of the latter application, the present application stands disposed off as withdrawn.

Copy of this order be sent to Ld. Counsel for applicant/accused through email.

(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020



आकांक्षा व्यास
AAKANKSHA VYAS
भारतनगर मेट्रोपॉलिटन (पूर्व)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 05, दिल्ली नगर
Court No. 05, And Floor
काकुदरदुमा कोर्ट, दिल्ली-32
Karkardooma Courts, Delhi-32

FIR No.59/2020
P.S.:Krishna Nagar
State Vs. Kalu Gupta

06.08.2020

Present : Ld. APP for the State is available for hearing through Video Conferencing.

Ld. Counsel for applicant is present through Video Conferencing.

Ld. Counsel for the applicant contended that one Kalu Gupta against whom specific allegations have been made by the complainant in the present FIR, has not been arrested by the IO and the said Kalu is now threatening the complainant and pressurizing him for compromising the matter. Accordingly, in the present application, the applicant seeks status report qua the aspect of arrest of the said Kalu and seek direction to the IO to arrest the said Kalu.

I have perused the charge sheet and I have also given due consideration to the submissions made by the Ld. Counsel for applicant. In so far as the prayer made by the applicant for seeking status report qua the arrest of Kalu is concerned, the said prayer is infructuous as the applicant is already aware that he has not been arrested. In so far as the prayer of the applicant seeking direction to the IO to arrest Kalu is concerned, this court cannot pass such a direction, as arrest of accused is prerogative of the IO. However, at this stage, I have also perused the charge sheet. It is noted that specific allegations have indeed been made by the complainant against the above named Kalu, but the charge sheet is silent on the point of investigation conducted qua the role of the above named Kalu in the present case.

Accordingly, issue notice to the IO, returnable for NDOH. Re-list for consideration on 10.08.2020.

Copy of this order be sent to Ld. Counsel for applicant/accused through email.

(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकंशा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 03, द्वितीय तल
Court No. 03, 2nd Floor
कडकडडूमा कोर्ट, दिल्ली-32
Kaskardooma Courts, Delhi-32

FIR No.ED-P14-000517
P.S.: PIA
U/s: 379 IPC
State Vs. Not known

06.08.2020

Present : Ld. APP for the State is stated to be present through Video Conferencing.

None for applicant.

Reply not received. IO/SHO concerned is directed to file reply on 07.08.2020.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांक्षी व्यस
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 05, द्वितीय तल
Court No. 05, 2nd Floor
काकरोडूमा कोर्ट, दिल्ली-32
Karkardooma Courts, Delhi-32

FIR No:000182/2020
P.S.: Shakarapur
U/s: 379 IPC
State Vs. Farhan

06.08.2020

Present : Ld. APP for the State is present through Video Conferencing.
None for applicant in person.

The present application for release of mobile phone **REALME C2** on Superdari has been filed by the applicant.

Reply has been filed under the signature of ASI Krishan Kumar wherein it is submitted that there is no objection for the release of the mobile phone to the **rightful owner**.

In view of the no objection of the IO, oral arguments of Ld. Counsel for applicant are dispensed with.

In these circumstances the aforesaid mobile phone be released to the **rightful owner** only subject to satisfaction of the IO/ SHO about the following conditions:

1. IO shall prepare detailed panchnama mentioning the colour, appearance, IMEI number, ownership and other necessary details of the mobile phone:
2. IO shall take the colour photographs of the mobile phone from different angles.
3. The photographs should be attested and counter signed by the complainant, accused and rightful owner.
4. IO shall take the security bond of appropriate value from the rightful owner, taking into consideration the value / bill / receipt of the mobile phone to the satisfaction of the concerned IO/ SHO subject to verification of documents.

Copy of this order be sent to Ld. Counsel for applicant on his email ID and a copy be also sent to the SHO PS concerned for compliance.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांक्षा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 03, द्वितीय तल
Court No. 03, 2nd Floor
कडकडूमा कोर्ट, दिल्ली-32
Kadkaduma Courts, Delhi-32

EFIR No.04641/20
P.S.: Shakarpur
U/s: 379/411 IPC
State Vs. Ajay Kumar

06.08.2020

Fresh application for release of **vehicle bearing No. DL13SN 4801 (Yamaha Motorcyle)** on superdari, on behalf of applicant received by way of email.

Present : Ld. APP for the State is present through Video Conferencing.
None for applicant in person.

Reply has been filed under the signature of HC Munna Lal wherein it is submitted that there is no objection for the release of vehicle to the **rightful owner** only. In view of the no objection of IO, oral arguments of for applicant are dispensed with.

The Hon'ble High Court has observed in *Manjit Singh V. State* CRL. M.C. 4485/2013 and CRL. M.A. No. 16055/2013 decided on 10.09.2014 as follows:

"Vehicles"

1. Vehicles involved in an offence may be released to the rightful owner after preparing detailed panchnama; taking photographs of the vehicle; valuation report; and a security bond.
2. The photographs of the vehicle should be attested and countersigned by the complainant, accused as well as by the person to whom the custody is handed over.
3. The production of the vehicle should not be insisted upon during the trial. The panchnama and photographs alongwith the valuation report should sufficient for the purpose of evidence.
4. Return of vehicles and permission for sale thereof should be general norm rather than the exception.

In these circumstances the aforesaid vehicle be released to the **rightful owner only after verifying the ownership of vehicle in question** subject to satisfaction of the IO/ SHO about the following conditions:

1. IO shall prepare detailed panchnama mentioning the colour, appearance, Engine no. Chassis No., registered owner and other necessary details of the vehicle:
2. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chassis number of the vehicle.
3. The photographs should be attested and counter signed by the complainant, accused and rightful owner.
4. IO shall get the vehicle valued from a proper valuer and shall take a valuation report in this regard from the valuer.
5. IO shall take the security bond of appropriate value from the rightful owner, taking into consideration the valuation report.

Copy of this order be sent to the applicant on his email ID and be also sent to the SHO PS concerned for compliance.

(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020



आकांक्षा वीर
AAKANKSHA VYAS
महानगर दफतरी (पूर्व)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 05, द्वितीय तल
Court No. 05, 2nd floor
कानूनसदन भवन, दिल्ली-32
Metropolitan Courts, Delhi-11

E-FIR No. 000505/20
P.S.: PIA
U/s: 379/411 IPC
State Vs. Amzad

06.08.2020

Fresh application for bail U/s 437 Cr.P.C. on behalf of accused, received by way of email.

Present : Ld. APP for the State is stated to be present through Video Conferencing.

None for applicant in person.

IO/SHO of PS concerned to file reply on 07.08.2020.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांशा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 03, द्वितीय तल
Court No. 03, 2nd Floor
कडकडडूमा कोर्ट, दिल्ली-32
Kackardooma Courts, Delhi-32

E-FIR No. 000510/20
P.S.: PIA
U/s: 379/411 IPC
State Vs. Amzad

06.08.2020

Fresh application for bail U/s 437 Cr.P.C. on behalf of accused, received by way of email.

Present : Ld. APP for the State is stated to be present through Video Conferencing.

None for applicant in person.

IO/SHO of PS concerned to file reply on 07.08.2020.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांक्षी व्‍यास
AAKANKSHA VYAS
महानगर मजिस्ट्रेट (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 05, द्वितीय मंज
Court No. 05, 2nd Floor
कटकदेहना कोर्ट, दिल्ली-05
Katkadehna Courts, Delhi-05

FIR No. 36/20
P.S.: PIA
State Vs. Dulare

06.08.2020

Fresh application for release of jamatalashi articles viz Gold Ring, Samsung Galaxy J-6 mobile, cash Rs.3,300/- and D.L. on behalf of applicant, received by way of email.

Present : Ld. APP for the State is stated to be present through Video Conferencing.

None for applicant in person.

IO/SHO of PS concerned to file reply on 07.08.2020.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांशा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 08, द्वितीय तल
Court No 08, 2nd Floor
कडकडूमी कोर्ट, दिल्ली-05
Kadkadumi Court, Delhi-05

FIR No. 0081/20
P.S.: PIA
U/s: 279/337 IPC

06.08.2020

Fresh application for release of Govt. vehicle bearing No. DL1SAD-2202 on behalf of applicant, on superdari, received by way of email.

Present : Ld. APP for the State is stated to be present through Video Conferencing.

None for applicant in person.

IO/SHO of PS concerned to file reply on 07.08.2020.

(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकाशा व्यास
AAKANKSHA VYAS
महानगर दण्डाधिकारी (पूर्वी)-05
Metropolitan Magistrate (East)-05
कोर्ट नं 03, द्वितीय तल
Court No 03, 2nd Floor
कडकडदूबा कोर्ट, दिल्ली-32
Karkardooma Courts, Delhi-32

FIR No. 0373/20
P.S.: Krishna Nagar
U/s: 33 of Delhi Excise Act
State Vs. Veeru Prasad

06.08.2020

Fresh application for bail U/s 437 Cr.P.C. on behalf of accused, received by way of email.

Present : Ld. APP for the State is stated to be present through Video Conferencing.

None for applicant in person.

IO/SHO of PS concerned to file reply on 07.08.2020.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

06.08.2020
AANKANSHA VYAS
MM-05 (East) Court
K.K.D. Court
Delhi-110002

FIR No. 383/20
P.S.: Krishna Nagar
U/s: 279/337 IPC
State Vs. Ravi

06.08.2020

Fresh application for release of vehicle bearing No. DL-12-CH-0921 (Swift Desire Car) on superdari, on behalf of applicant, received by way of email.

Present : Ld. APP for the State is stated to be present through Video Conferencing.

None for applicant in person.

IO/SHO of PS concerned to file reply on 07.08.2020.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
Delhi/ 06.08.2020

आकांशा व्यास
AAKANKSHA VYAS
महानगर सत्राधिकारी (पूर्व)-05
Metropolitan Magistrate (East)-05
कोर्ट नं. 03, द्वितीय तल
Court No. 03, 2nd Floor
कडकडडूमा कोर्ट, दिल्ली-05
Karkardooma Courts, Delhi-05

FIR No. 232/2019
P.S.: Krishna Nagar
U/s: 376 IPC & POCSO Act.
State Vs. Sachin

06.08.2020

Present : Ld. APP for the State is stated to be present through Video Conferencing.

None for applicant/accused in person.

Verification report has been received from IO. Same is perused. Issue notice to accused through IO returnable for 07.08.2020.



(Aakanksha Vyas)
MM-05 (East)/ KKD Court
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Present:- None for complainant in person.

An application u/s 156(3) alongwith a complaint u/s 200 Cr.PC. had been moved by the complainant against the accused persons with a prayer that the complaint be sent to the concerned PS for registration of FIR. In view of application u/s 156(3) CrPC, status report was summoned from the concerned PS. Subsequently, arguments of Ld. Counsel for the complainant on the said application were heard through Video Conferencing vide Webex Meeting. The case is fixed for orders today.

ORDER

I have carefully perused the complaint and application u/s 156(3) Cr.P.C. as well as the other material on record. I have also perused the status report filed by the IO.

Briefly put, the facts of the present case are as follows. The complainant has filed the present complaint against accused No. 1 i.e. Ashok Nursing Home, accused No. 2 i.e. Dr. Deepa Singh and accused No. 3 i.e. SHO PS Krishna Nagar. The caption of the present complaint states that this is a complaint for seeking direction to SHO PS: Krishna Nagar for registration of FIR against the above named accused persons U/s 304A/120B/34 IPC. The complainant has stated that on 08.11.2018 at 06:16 PM, his wife Neha, who was pregnant, got admitted in the hospital i.e. accused No. 1, with labor pain. The complainant has stated that his wife was under the observation and



treatment of accused No. 2 and at the time of her admission to the hospital, her foetus was healthy and this fact was acknowledged by accused No. 2. The complainant has further stated that on 09.11.2018, accused No. 2 informed the complainant that she needs to admit the wife of complainant for one more day for the purpose of delivery and also informed the complainant that the foetus was well and healthy. The complainant has alleged that on 10.11.2018 at about 4:00 AM, when the nurse checked the heartbeat of the foetus, she got suspicious and called the duty Doctor who also started behaving suspiciously after checking the heartbeat of the foetus and called accused No. 2. The complainant has stated that when accused No. 2 checked the heartbeat of the foetus, she informed the complainant that the child in the womb of the complainant's wife had died and subsequently the complainant's wife gave birth to a dead child. The complainant has stated that thereafter he called his father who arrived at the hospital at about noon, but the parents of the complainant's wife were behaving in a weird manner and seemed to be in a hurry to cremate the deceased child and further, the parents and the relatives of the complainant's wife also behaved inappropriately with the complainant's father. The complainant has stated in his complaint that accused No. 2 did not disclose any information to the complainant regarding the cause of death of his child and thereafter the complainant called on 100 No. and also lodged a complaint against accused No. 1 & 2. The complainant has alleged that the police officials from PS: Krishna Nagar pressurized the complainant to withdraw the complaint and when the complainant refused to withdraw the complaint, IO Amarchand Sharma threatened the complainant that unless he withdraws his complaint, he would not be able to see the



face of his deceased child. The complainant has alleged that under duress, he withdrew his complaint. The complainant has also stated in his complaint that he had asked the doctors of SDN Hospital to conduct paternity test on the child, but till date neither the post-mortem report nor the DNA report has been made available to the complainant. The complainant has alleged that his child died solely due to gross negligence and unethical conduct of the doctor i.e. accused No. 2. He has also alleged that in the case summary, it is stated that 'patient was advised C-section due to foetal distress which patient's relatives refused' but he had not been informed by the doctor that there is a complication regarding child birth or regarding C-section and just to escape liability, a false case summary had been prepared regarding his deceased child. The complainant has also alleged that the malafides of accused No. 1 & 2 are also borne out by the fact that at the time of her admission to the hospital, the complainant's wife was prescribed one pain killer i.e. 'Baclofhen', but the case summary makes no mention of the administration of this pain killer to his wife. The complainant has stated that he made a complaint dated 19.04.2019 to SHO PS:Krishna Nagar and also sent a copy of the same to Sr. Police Officers, but no action has been taken on his complaint.

I have perused the ATR as per which the alleged offence is not made out. It is stated in the ATR by the IO that the complainant's wife namely Neha as well as her father namely Praveen Jain were present throughout at the Nursing Home and they have no complaint or grudge against the accused No. 1 or accused No. 2. Copy of the post-mortem report of the deceased child is also annexed with the ATR. I have perused the same as well. As per the post-mortem



report, the cause of death of the deceased child is 'still birth due to asphyxia as a result of aspiration of meconium during the process of delivery'. The ATR also reveals that there is some matrimonial dispute between the complainant and his wife and the said dispute has been referred to Delhi Government Mediation and Conciliation Centre where one settlement has also been arrived at between the parties on 06.07.2019.

I have carefully considered the averments made in the complaint and the ATR and also given due consideration to the submissions made by the Ld. Counsel for the complainant during arguments addressed by her during Video Conferencing vide Webex Meeting on the LDOH. In a nutshell, the complainant has alleged that his wife Neha who was pregnant got hospitalized in the hospital Ashok Nursing Home i.e. accused No. 1 where she was being treated by accused No. 2 and when she was hospitalized, she was healthy and her foetus was also healthy, but two days later, it transpired that foetus has died inside the womb and subsequently the complainant's wife gave birth to a dead child. According to the complainant, the death of his child has resulted due to rashness and negligence on the part of accused No. 1 & accused No. 2 and hence he seeks registration of FIR against accused persons. However, in the entire complaint, it is not clear as to how the accused no. 2 i.e. the treating doctor has been rash and negligent in the treatment of the complainant's wife. Simply because, the complainant's wife gave birth to a dead child, it cannot be concluded that accused No. 2 was negligent. At this stage, I may also usefully refer to the judgment of the Hon'ble Supreme Court in the case titled **Jacob Mathew Vs. State of Punjab** (judgment dated 5/8/2005) in which it has been held that:



'where a prosecution of a doctor for offence of which criminal rashness or negligence is an ingredient, is sought, a private complaint may not be entertained, unless the complainant has produced prima facie evidence before the Court in the form of a credible opinion given by another competent doctor to support the charge of rashness or negligence on the part of the accused doctor. Similarly, even the Investigating Officer must obtain independent and competent medical opinion preferably from a doctor in government service qualified in that branch of medical practice who can normally be expected to give an impartial and unbiased opinion, before registering FIR'.

Evidently, in the present case, the complainant has also not annexed any expert opinion to support his allegations of rashness and negligence on the part of accused no. 2. In view of the preceding ratio, the present complaint also cannot be entertained. Accordingly, the present complaint as well as application U/s 156(3) Cr.P.C stands dismissed.

File be consigned to Record Room.

Copy of this order be uploaded on the site of Delhi District Courts, today itself.


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