

**(2013) 05 DEL CK 0340**

**Delhi High Court**

**Case No:** Writ Petition (Criminal) 255 of 2013

Geeta

APPELLANT

Vs

State (NCT of Delhi) and Others

RESPONDENT

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**Date of Decision:** May 9, 2013

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 354, 506

**Hon'ble Judges:** G.P. Mittal, J

**Bench:** Single Bench

**Advocate:** H.S. Singh in W.P. Criminal 255/2013 and Mr. Sheikh Israr Ahmad in W.P. Criminal 341/2013, for the Appellant; Rajesh Mahajan, ASC for the State and Insp. V.K.P.S. Yadav, SHO OIA, for the Respondent

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### **Judgement**

G.P. Mittal, J.

These two Criminal Writ Petitions seek transfer of investigation of FIR No. 2/2013 dated 01.01.2013 registered at Police Station Okhla Industrial Area. Respondent No. 7 (Tipu Sultan) in W.P. (Crl.) No. 255/2013 is the Petitioner in W.P. (Crl.) No. 341/2013. As per the allegations made in the FIR Petitioner Geeta (Smt.) applied for issuance of a passport vide file No. DL 1060658594412. On 15.11.2012 at about 3:30 P.M., one police officer claiming himself to be Sub Inspector Narain Singh posted in PS Okhla Industrial Area visited the house of Petitioner Geeta to conduct an inquiry for the purpose of issuance of the passport. Said Narain Singh allegedly informed the Petitioner to come in a separate room as intense inquiries were to be made. According to the Petitioner, said Narain Singh asked the Petitioner to remove her clothes and molested her. When the Petitioner protested said Narain Singh allegedly threatened to implicate her in a false case. It is alleged that on 20.11.2012 the Petitioner again received a call from earlier said Narain Singh (from mobile No. 9015032200 on her mobile No. 6658329259). Said Narain Singh informed the Petitioner that the inquiry was still pending and a further inquiry was to be completed. He (Narain Singh) informed the Petitioner not to disclose these facts to

her husband or to anyone else otherwise her matrimonial life would be spoiled by said Narain Singh (Respondent No. 5).

2. Petitioner Geeta became suspicious about the conduct of Narain Singh and reported the matter to her husband. The Petitioner's husband made inquiries from the Passport Office about the new procedure of inquiry and was informed that no such procedure as stated by said Narain Singh has been laid down by the passport office. The Petitioner therefore, visited the SHO Police Station Okhla Industrial Area to lodge a report against Respondent No. 5. Respondent No. 4 (SHO), however, neither cooperated nor took any action against Respondent No. 5. Respondent No. 4 allegedly extended threats to the Petitioner to leave the Police Station or to face dire consequences.

3. The Petitioner, therefore, approached the NGO, Crime Mukti Media Association in her quest to get justice. The said Association send the complaint dated 30.11.2012 to Respondents No. 2 to 4 and other higher authorities. According to the Petitioner one person claiming himself to be Narain Singh from the Police visited the Petitioner on 20.12.2012 at 8:00 A.M. Said Narain Singh informed the Petitioner that he was the real Narain Singh and that his 30 years service in the police is at stake (although he had neither visited nor misbehaved with the Petitioner). The Petitioner's grievance is that Respondent No. 6 who was assigned the investigation of the FIR which was registered on her complaint called her to the Police Station and asked her to identify Respondent No. 7 as the Culprit who had committed the offence of molestation and misbehaviour. According to the Petitioner, the person shown (Respondent No. 7) was not the person who had visited her house and had misbehaved with her. The Petitioner, therefore, says that having lost faith in the local police the investigation of the FIR ought to be transferred to any other investigating agency.

4. As stated earlier, Respondent No. 7 Tipu Sultan is the Petitioner in W.P. (Crl.) No. 341/2013. He also wants the investigation of the same FIR to be transferred to some other agency on the ground that he is being falsely projected as fake Narain Singh who allegedly visited the Petitioner and had molested her.

5. A status report has been filed by the police whereby registration of the case on Petitioner's complaint has not been disputed. It has been reported that one Head Constable Narain Singh from Special Branch was in touch with Tipu Sultan and during investigation it transpired that in fact Tipu Sultan had visited the Petitioner under the assumed name of Sub-Inspector Narain Singh and had molested her.

6. I have heard Mr. H.S. Singh, learned counsel for the Petitioner Geeta, Mr. Sheikh Israr Ahmad, learned counsel for the Petitioner Tipu Sultan and Mr. Rajesh Mahajan, learned Additional Standing Counsel for Respondents No. 1 to 6.

7. The learned Additional Standing Counsel for the Respondents No. 1 to 6 states that the Petitioner should not have any apprehension regarding unfair investigation in as much as Head Constable Narain Singh, who was assigned the inquiry in

respect of the passport application, is not posted in Police Station Okhla Industrial Area. It is urged that it is not the choice of the complainant to decide as to which agency should conduct the investigation.

8. Petitioner Geeta has complained about not only the non cooperative attitude of the SHO but also the threats being extended to her by the SHO. She has further complained that she was being coerced to accept Respondent No. 7 (Tipu Sultan) as the culprit who had molested her while infact he was not that person. Respondent No. 7 in W.P. (Crl.) No. 255/2013 is the Petitioner in W.P. (Crl.) No. 341/2013. He also has a grievance that he is being falsely implicated even when Petitioner Geeta (the complainant) has not identified him as the culprit.

9. In the peculiar facts and circumstances of the case and without casting any aspersions on the conduct of the SHO or the IO, it would be expedient and in the interest of justice to have the further investigation of the case FIR No. 2/2013 registered at Police Station Okhla Industrial Area under Sections 354/506 IPC to be carried out by the Crime Branch of Delhi Police.

10. Both the Petitions are disposed of with the direction to the Commissioner of Police to assign the investigation of the case FIR No. 2/2013 to the Crime Branch of Delhi Police. A copy of the order be given dasti to the learned Additional Standing Counsel for the Respondents No. 1 to 6 for the compliance of the directions.