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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 480/2020**

MANOHAR LAL SHARMA

..... Petitioner

Through: None.

versus

CENTRAL BUREAU OF INVESTIGATION (C.B.I.) & ORS.

..... Respondents

Through: Mr. Rajesh Kumar, SPP with Ms. Ramneet Kaur, Ms. Mishika Pandita, Mr. Shivam Singh and Mr. Dobwal, Advocates for CBI.

Ms. Nandita Rao, ASC with Mr. Amit Peswani and Mr. Jasraj Singh Chhabra, Advocates for GNCTD with SI Ria, PS: Hauz Khas.

Mr. Anil Soni, CGSC with Mr. Devrat Yadav, Mr. Archil Misra and Mr. Prateek Rana, Advocates for UOI.

Mr. Aman Nandrajog, Mr. Varun J. and Mr. Vipul Tiwari, Advocates for R-6 to 8.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

17.08.2023

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1. Despite lack of representation on behalf of the Petitioner or even their

presence in person, this Court, with the commendable assistance of Ms. Nandita Rao, ASC, has thoroughly reviewed the matter at hand.

2. This Public Interest Litigation (PIL) pertains to a deeply distressing incident that transpired at Gargi College, Siri Fort Road, New Delhi. As reported by Times of India on 09th February 2020, an unauthorized group accessed the college premises during the festival and reportedly engaged in unwarranted behaviour, including alleged sexual harassment of female students. Relying upon such new reports, the Petitioner seeks the following remedies:

- “1. To the C.B.I. to lodge F.I.R. to investigate, seize (sic.) all video, CC TV records surrounding Gargi campus (inside and outside), arrest to the all accused person, including the political leaders behinds this planned criminal conspiracy, and file their report before this Hon'ble court for further action and prosecution u/s 354 & 376/511 r.w. 120-B of IPC to provide complete justice to the girl students who are victim of such heinous crime.
2. Be pleased to provide cost to the Petitioner.”

3. An FIR no. 55/20 Dated 10/02/2020 u/s 452/354/509/34 of the Indian Penal Code, 1860 has already been registered and investigation of the case has also been carried out. However, considering the gravity of offences and the public cause espoused, this court also delved into the issues urged. Ms. Nandita Rao, ASC for GNCTD along with Sub-Inspector Ria, PS: Hauz Khas submits that existing CCTV footages have not documented any instance of the alleged harassment. Though preliminary testimonies under Section 161 of Criminal Procedure Code, 1973 suggest harassment, none of the aggrieved parties have positively identified any perpetrators. Consequently, an 'untraced report' has been prepared, awaiting further

proceedings before Ld. MM Rashi Raheja, Saket Court, New Delhi where the matter is next listed on 23rd August 2023. The status report present before us reads as under:

“1. That the brief facts of the Case are Dr. Promila Kumar, Principle Gargi college, Siri Fort Road, New Delhi had filed a complaint at PS Hauz Khas, New Delhi on 10/02.2020 wherein it was alleged that on 06.02.2020 Gargi College was celebrating Annual Fest when at about 3.30 PM onwards some unknown persons took forced unlawful entry into college premises and indulged in sexual harassment to girls students during College Fest. Accordingly, an FIR No 55/20 Dated 10/02/2020 U/ S 452/354/509/34 IPC was registered and Investigation of the case was carried out.

2. That during Investigation It was surfaced that on 06.02.2020 an annual Festival was organized in Gargi College by college management and student union of Gargi college. The event time was scheduled for 6.00 to 8.00 PM and one singer namely Mr. Jubin Nautiyal was also invited to perform in the event. The entry passes were distributed by college administration. The college staff and private guards were deputed to regulate and check entry of visitors/students/participants by management.

3. During Investigations sincere efforts are made to identify the alleged/accused persons. In fact, the alleged persons were unknown to girls' students as they allegedly turned up in the college only on the day of event i.e. on 06.02.2020. Due to the above circumstances an untrace report has been prepared and has been submitted in Hon'ble Court of Ld. MM Rashi Raheja Saket Courts New Delhi and the Next date of hearing is 23/8/23.”

4. This Court voices its unease regarding the impending closure of a grievous incident without holding any individual accountable. While some testimonies have been collected, the lack of definitive evidence under Section 164 poses challenges. Ms. Rao has informed that none of the witnesses have come forward to make a statement under the afore-noted provision. Such hesitancy on part of the witnesses to come forward to make statement needs to be addressed. The law enforcement agencies must instill confidence in them and assist them to come forward to make the necessary

disclosures. The Witness Protection Scheme, 2018,¹ ought to be leveraged to fortify the investigation and safeguard witnesses. It is crucial to scrutinize all available footage, especially those capturing the vehicles, given the evidence suggesting their significant role in the incident. Media reports indicate that certain individuals were apprehended but were later released on bail. To let go such potential leads without meticulous scrutiny would be a miscarriage of justice. Furthermore, during the course of hearings, it was submitted by counsel that the installed CCTVs cover only the perimeter of the college, leaving the interiors vulnerable. According to the newspaper report on record, the accused arrived in the campus vicinity in trucks. Such CCTV footage must be thoroughly examined to identify the vehicles used which can lead to the offenders. Several video-clips from the incident also show that vehicles were vandalised and arranged around the perimeter to gain access to the college compound. Media reports alluding to the detention and subsequent release of certain individuals necessitate a comprehensive follow-up. We are therefore of the opinion that the concerned DCP should personally look into the matter and supervise the investigation.

5. To ensure the prevention of any future recurrence of such incidents, a two-pronged approach is required. First, the Commissioner of Police, in conjunction with the Vice-Chancellor of Delhi University, is directed to bolster police visibility and surveillance during college events. Secondly, both the college and Delhi University administrations must work in concert with the police to establish protective protocols, ensuring students' safety.

6. With respect to the criminal investigation, given the ongoing

¹ Judgment in Mahendar Chawla v. Union of India dated 05.12.2018 in Writ Petition (Criminal) No. 156 of 2016 (Supreme Court)

proceedings before the Metropolitan Magistrate, Saket Court, New Delhi, this Court deems it apt to refrain from any further monitoring. No further orders are required to be passed in the present PIL and the learned Magistrate shall be free to proceed in accordance with law.

7. With the above directions, the present petition is disposed of.

SATISH CHANDRA SHARMA, CJ

SANJEEV NARULA, J

AUGUST 17, 2023
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