

ITEM NO.23

COURT NO.4
(HEARING THROUGH VIDEO CONFERENCING)

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Cr1.) No.4556/2020

(Arising out of impugned final judgment and order dated 13-08-2020 in CRLMC No.1516/2020 passed by the High Court Of Delhi At New Delhi)

STATE OF GNCT OF DELHI & ORS.

Petitioner(s)

VERSUS

ANIL KUMAR

Respondent(s)

(FOR ADMISSION and I.R.; IA No.130222/2020 - FOR EARLY HEARING APPLICATION; IA No.96226/2020 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; and, IA No.96225/2020 - FOR EXEMPTION FROM FILING O.T.)

Date : 18-12-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN
HON'BLE MR. JUSTICE S. RAVINDRA BHATFor Petitioner(s) Mr. Sanjay Jain, ASG
Mr. D.L. Chidananda, Adv.
Mr. Akshay Amritanshu, Adv.
Mr. Padmesh Mishra, Adv.
Mr. Arkaj Kumar, Adv.
Mr. B. V. Balaram Das, AORFor Respondent(s) Mr. Samrat Nigam, Adv.
Mr. Pradeep Kumar, Adv.
Mr. Rohit Kumar Singh, AOR
Mr. Shubham V. Gawande, Adv.UPON hearing the counsel the Court made the following
O R D E R

While disposing of Cr1.M.C. No.1516 of 2020, the High Court of Delhi by its order which is presently under appeal passed the following directions in para 37 of its order:

"37. In view of above discussions and the material on record, while exercising powers under Section 482 Cr.P.C., I hereby issue directions as under:

- i. Regarding the issue that Jagdev Shukla, Rohit Shukla @ Ramanand Tiwari, Mohit Shukla etc. have encroached the police land and built house in police colony, despite they are neither employees of Delhi Police nor land allotted to them, petitioner is at liberty to file proper petition, as per law, against abovenamed persons.
- ii. SHO/IO of the case FIR No.78/2020 is directed to preserve ROJNAMCHA-A of 03.03.2020 and place on record along with report under section 173 Cr.P.C.
- iii. SHO/IO is directed to place on record Trial Court Record, the material seized during investigation for fair trial.
- iv. Further directed to preserve and place on record the CDR of Rohit Shukla @ Ramanand Tiwari.
- v. The Commissioner of Police, Delhi is directed to initiate departmental enquiry, against the SHO/respondent no.6 and respondent nos.4 & 5/IOs and ACPs, who have not played fair role while dealing the present FIR, as discussed above, as per law."

Mr. Sanjay Jain, learned ASG appearing on behalf for State of Delhi submits that direction no.(v) is in the nature of a mandatory direction and given the observations made by the High Court during the course of its order, the issue may get concluded against the concerned officials.

Mr. Samrat Nigam, learned counsel appearing on caveat on behalf of the original writ petitioner, submits that the apprehension expressed by Mr. Sanjay Jain, learned ASG is not correct and any departmental enquiry so initiated will definitely be in accordance with law.

We see force in the submissions of Mr. Samrat Nigam, learned Advocate.

In our view, the direction issued by the High Court is not in the nature of a mandate to decide the proceedings in a particular way. All that it has contemplated is to have a departmental enquiry initiated against the concerned individuals. Any such departmental enquiry will naturally have to be undertaken purely in accordance with law.

We clarify that no observations made by the High Court in the present matter shall in any way be taken to have concluded any issue which may fall for consideration in such enquiry.

With the aforesaid observations, this Special Leave Petition is disposed of.

Pending applications, if any, also stand disposed of.

(MUKESH NASA)
COURT MASTER

(PRADEEP KUMAR)
BRANCH OFFICER