

Item No. 12



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 884/2021

This the 10th day of May, 2021

(Through Video Conferencing)

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Tarun Shridhar, Member (A)**

Anita Rani
W/o Shri Bijender Singh
R/o House No. C-115, Third Floor
Mohan Garden, Near Shiv Mandir
Uttam Nagar, D.K. Mohan Garden
West Delhi 110059. ... Applicant

(By Advocate: Mr. Rahul Sharma)

Versus

The Commissioner of Police
PHQ-ITO, Delhi. ... Respondent

(By Advocate : Ms. Purnima Maheshwari)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant is working as Sub Inspector in the Delhi Police. She was issued summary of allegations on 23.03.2021. It was alleged that a charge sheet has been filed against her in connection with an FIR No.328/16, stating that a complaint was submitted by her daughter-in-law, by name, Neelam, and she alleged that the applicant and her son demanded more dowry, and when the same was not complied with, they tortured her and beaten her. It was further stated that being a member of a disciplined force, the applicant should not have involved in such unscrupulous activities and that such acts constitute violation of CCS (Conduct) Rules. It is also alleged that said acts amount to misconduct and are unbecoming of a member of the disciplined force. Lists of witnesses and documents were also enclosed. This OA is filed with a prayer to direct the respondents to defer the disciplinary proceedings till the criminal case is decided.

2. The applicant contends that the summary of allegations is nothing but a reproduction of allegations in the charge sheet in the criminal case, and that the lists of witnesses and list of documents that were appended to the charge sheet are enclosed to the summary of allegations; as they are. The

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applicant pleads that in case the disciplinary proceedings are taken up now, she would be forced to disclose and divulge her defence, and that would prove to be very detrimental for her defence in the criminal case.

3. The respondents filed counter affidavit. It is stated that the purport of the disciplinary proceedings on the one hand, and the criminal case on the other hand, are totally different. According to them, the allegation against the applicant in the disciplinary proceedings is about the very demand of dowry, which is prohibited and it would not have any effect on the criminal case at all.

4. We heard Shri Rahul Sharma, learned counsel for the applicant and Ms. Purnima Maheshwari, learned counsel for the respondents.

5. The limited prayer in the OA is to defer the disciplinary proceedings initiated against the applicant, till the criminal case is decided. To be very clear, the applicant did not challenge the summary of allegations as such.

6. It is true that the parameters for determination of the disciplinary proceedings, on the one hand, and the trial in the Criminal Court, on the other hand, are substantially different. Many a time, the same set of allegations would be the subject

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matter of two sets of proceedings Where, however, the allegations in the disciplinary proceedings are nothing but the replica of the one in the criminal case, and the witnesses, and the documentary evidence are common to both, the disciplinary proceedings must await the outcome of the criminal case. The reason is that the determination of the disciplinary proceedings even while a criminal case is pending would lead to a situation where an employee would be required to disclose or divulge his or her defence, and that in turn, would prejudice the defence in the Criminal Court.

7. The summary of allegations against the applicant reads as under :-

“SUMMARY OF ALLEGATIONS

It is alleged against W/SI Anita Dahiya No. 5074/D. (PIS No. 28870841) that while posted in West District, New Delhi, a case FIR No. 328/16 dated 12.07.16 u/s 498-A/406/34 IPC PS Sarojini Nagar was registered against her on the complaint of Neelam D/o Surender Pal Singh R/o H-4, Police Colony, Sarojini Nagar, Delhi. A charge-sheet has been filed in the said case. The complainant Smt. Neelam alleged that her mother-in-law Anita Dahiya and her son demanded more dowry from her. She was tortured and beaten-up by Anita Dahiya and her son for not fulfilling their dowry demand, which is a serious lapse on her part. W/SI Anita Dahiya

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No. 5074/D, knowing that she is a member of disciplined force should not have involved in such unscrupulous activities but despite this, she allegedly harassed and beaten her daughter-in-law Neelam for not fulfilling her demand of dowry etc., which is violation of CCS (Conduct) Rule-1964.

The above act on the part of W/SI Anita Dahiya No. 5074/D, amounts to gross misconduct, and unbecoming of a member of disciplined police force, which render her liable for departmental action under the provisions of Delhi Police (Punishment & Appeal), Rules, 1980 read with section 21 of DP Act 1978 as well as CCS (Conduct) Rule-1964.”

8. A perusal of the same discloses that the only basis for issuing of the charge sheet is the registration of FIR No. 328/16. Ever since the FIR was registered, the respondents did not feel the necessity of proceeding against the applicant. It is only after the charge sheet is filed therein that they have issued the summary of allegations. There is not even a trace of allegation as regards the acts and omissions on the part of the applicant with regard to her duties in the department.

9. The list of witnesses enclosed to summary of allegations is simply, the one which was appended to the charge sheet in the criminal case. It reads as under:

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S. No	Name	Address	Type of evidence to be tendered
1.	Neelam D/o Surender Pal Singh	H-4, Police Colony, Sarojini Nagar, Delhi	To prove her complaint bearing No. 17/N/South/SPUWAC/Nanakpura dt-04.12.2015 and also her statement u/s 161 & 164 Cr. P.C.
2.	MHCR	PS Sarojini Nagar, New Delhi	To prove FIR No. 328/16 u/s 498A/406/34 IPC PS Sarojini Nagar, Delhi.
3.	Surender Pal Singh	H-4, Police Colony, Sarojini Nagar, Delhi	To prove statement u/s 161 Cr. P.C.
4.	Smt. Munni Devi W/o Surender Pal Singh	H-4, Police Colony, Sarojini Nagar, Delhi	To prove statement u/s 161 Cr. P.C.
5.	Darshana W/o Krishan Pal Singh	Qtr No. G-2, Police Colony, Sarojini Nagar, Delhi.	To prove statement u/s 161 Cr. P.C.
6.	Mrs. Dharmwati W/o Beer Singh	C-301, Police Colony, Sarojini Nagar, New Delhi.	To prove statement u/s 161 Cr.P.C.
7.	Dr. Vikas Chauhan SMO	E&T Deptt. Safdarjung Hospital, New Delhi	To prove final opinion regarding complainant's injuries

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8.	SI N.K. Singh No. D-4465	PS Sarojini Nagar	I.O to prove the charge-sheet in the case.
9.	HAE/West District and R.P. Bhawan		They will prove the posting of W/SI in their Distt./Unit
10.	Any other witness as deemed fit by the E.O.		

10. The respondents were so casual about the issue that they did not differentiate the purpose of examining the witnesses in a criminal case on the one hand, and in a disciplinary inquiry on the other. In the former, the purpose is required to be stated. In the latter, the witnesses would be just named and what would be spoken to by them, is left blank. Secondly, it is just un-understandable as to how the Inquiry Officer, in a disciplinary matter, can examine the witnesses to prove the statement under 161 Cr.PC or the opinion regarding the injuries said to have been received by the complainant. All these are totally outside the scope of the disciplinary inquiry. So is the case with the list of documents. They contain the statements said to have been recorded from various persons. The Disciplinary Authority, just cannot think of recording the finding about the truth or otherwise of those statements. It is only for the Court, to deal with the same. Viewed from any angle, we do not find any basis for the respondents to proceed

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with the disciplinary inquiry even while the criminal case is pending.

11. We, therefore, allow the OA, directing the respondents to defer the disciplinary proceedings against the applicant till the disposal of the criminal case pending against the applicant with reference to FIR No.328/16. The Disciplinary Authority shall take steps to correct the anomalies pointed in this order. There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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