

15.12.2021

Present: Ld. counsel for the complainant.

This is the application under section 156 (3) Cr. PC filed by complainant. ATR filed by the SHO concerned is perused and submissions heard.

Brief facts of the case of complainant are that son of applicant has been killed by alleged Parshuram and other unknown persons. That applicant is mother of deceased Vikas. That applicant and her husband are into the business of making small decorative items and for that their son deceased Vikas used to buy raw material from a person namely Parshuram for last 10 – 12 years. That on 27.12.2020 at around 8:00 am applicant and her family members including Vikas went to Kalkaji Temple and had returned to their home situated at Malkaganj, Delhi at 12:30 pm. That on that day applicant received telephonically calls from alleged Parshuram and his elder son Yogesh demanding their balance amount of Rs.25,000/- from the applicant's son and were insisting to pay the said amount on the said date itself. That deceased Vikas requested to grant some time to payment of amount but alleged Parshuram threatened that if he will not pay the said amount he will have to face dire consequences. That after collecting money from all sources deceased Vikas was able to collect only Rs.9,000/- out of Rs. 25,000/- which was not sufficient to clear the debt of alleged Parshuram. That on 27.12.2020 deceased Vikas had gone to the place of Parshuram via public transport to pay the amount of Rs. 9,000/-. That around 4:30 pm on same day Sh. Vivek younger son of Parshuram came to the house of applicant and informed applicant and her husband that their son (deceased Vikas) had fallen from the stairs and

sustained an injury in his leg and admitted to Lok Nayak Hospital, near Metro, Station Central Jawahar Lal Nehru Marg, near Delhi Gate LNJP colony, New Delhi-110002. That younger son of applicant namely Prabhakar reached Lok Nayak Hospital, Trauma Centre at around 5:00 pm where the enquiry officer namely Sh. Sita Ram alongwith Parshuram and his 8-10 persons were already present over there and it was informed to him that his brother had died. The reason of death of their son was told that he was flying kite from the fourth floor near to the building of Parshuram and while flying the kite from fourth floor he fell down to terrace of second floor of adjacent building. It is the case of complainant that her son deceased Vikas has died under the mysterious circumstances. That he had gone to place of Parshuram to make payment of his dues and it is unlikely he will be flying kites on 27.12.2020 in pandemic situation. That unexplained injuries on the person of deceased from the postmortem report. That younger son of Parshuram namely Vivek had informed to complainant that her son deceased Vikas had fallen from stairs and sustained injury in his leg whereas when they reached hospital they were told that deceased Vikas had died due to falling from terrace. That no action has been taken by the police on the complaint of complainant herein hence, present application under section 156 (3) Cr. PC is filed by complainant.

As per the action taken report filed by EO/SI Nitin Kumar, they have conducted preliminary enquiry and concluded that allegations made by the complainant are false and fabricated. Copy of inquest report is also filed and perused. As per the ATR itself in paragraph No.3 EO has stated that Vivek son of Parshuram had informed father of deceased that his son had fallen from **stairs** and was admitted at Trauma Centre, Civil Lines whereas the death of deceased Vikas had happened in mysterious circumstances from falling from terrace as mentioned in para No. 4 of ATR.

Submissions heard. Record perused.

From the ATR it appears that EO has arrived at conclusion only on the basis of statement of alleged persons and completely disregarded the facts of the complaint herein. The complaint herein prima facie discloses commission of cognizable offence. As death of deceased Vikas has happened in mysterious circumstances. In view of same, ATR filed by EO/SI Nitin Kumar is not satisfactory in view of the law laid down by Hon'ble Supreme Court of India in the judgment titled as "Lalita Kumari vs. Govt. of UP & Ors." dated 12.11.2013 wherein it was held that registration of FIR is mandatory under section 154 of the Cr.P.C. if the information discloses commission of the cognizable offence and no preliminary enquiry is permissible in such a situation.

Hon'ble High Court of Delhi in the case of "Paradise Credit Pvt. Ltd. & Ors. vs. State of NCT of Delhi" has observed that "the police officer cannot avoid his duty for registering FIR if cognizable offence is disclosed. Action must be taken against erring officials who do not register the FIR if information received by him discloses the cognizable offence".

Hon'ble High Court of Delhi in W.P (CrI) 481/2020 has observed "This Court finds it unfortunate that institutions that are supposed to protect the life and liberty of common citizens are quick to shirk their responsibilities. This invariably weakens the trust of common citizens that is imposed in these investigating agency. The Hon'ble High Court of Delhi has further observed in aforesaid writ petition "... ". Failure to register a regular FIR costs precious time that could be utilized for conducting the investigation and can also lead to destruction of important evidence.

Facts of the complaint disclose commission of cognizable offence which requires collection of evidence by the police. Accordingly, the application

under section 156 (3) Cr. PC is allowed.

SHO, PS New Usmanpur is directed to lodged an FIR and file report further after investigation.

**Notice be issued to DCP concerned to ensure fair and expeditious investigation in present case.**

Put up for report on 24.12.2021.

Copy of order be given dasti.

(Richa Parihar)

MM-02/NE/KKD Courts/Delhi/15.12.2021