Azadi Ka Amrit Mahotsav

OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE: ROHINI COURTS, DELHI

No. 40604-40676 Genl.I/F. 3(A)/N-W & N/RC/2023 Delhi, dated 30/11/2023

Sub: Judgment dated 17.10.2023 passed by Hon'ble High Court of Delhi in Crl. M.A. 12072/2023 in W.P. (Crl) 2236/2022 titled " Ajit Kumar Versus The State (NCT of Delhi) ".

Copy of letter bearing No. 64633/Crl. dated 23.11.2023, received from Hon'ble High Court of Delhi, along with a copy of judgment dated 17.10.2023 passed by Hon'ble Ms. Justice Swarana Kanta Sharma of Delhi High Court in Crl. M.A. 12072/2023 in W.P. (Crl) 2236/2022 titled " Ajit Kumar Versus The State (NCT of Delhi) " is being forwarded for information and necessary action/ compliance to :-

1. All the Ld. Judicial Officers **(DHJS & DJS)**, **North-West** and **North** District, Rohini Courts, Delhi.

2. The Dealing Official, Computer Branch, Rohini Courts, Delhi for uploading the same on WEBSITE.

3. The Dealing Official, R & I Branch, Rohini Courts, Delhi for uploading the same on LAYERS.

(VINOD YADAV)
District Judge, Comm. Court-02 (N/W)
Officer In-charge, General Branch
North-West & North District
Rohini Courts Complex, Delhi

Urgent

D-3 Decided

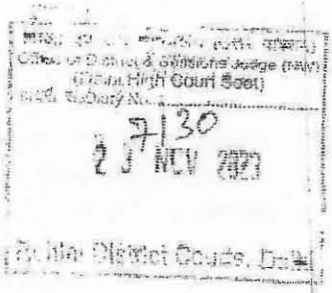
IN THE HIGH COURT OF DELHI AT NEW DELHI

No. 64633 /Crl. Dated : 23/11/23

From:

The Registrar General,
High Court of Delhi,
New Delhi

To,



1. The Principal District & Sessions Judge, (HQs) Tis Hazari Courts, Delhi.
2. The Principal District & Sessions Judge, Rouse Avenue Courts, Delhi.
3. The Principal District & Sessions Judge, East District, KKD Courts, Delhi.
4. The Principal District & Sessions Judge, North-East District, KKD Courts, Delhi.
5. The Principal District & Sessions Judge, Shahadra District, KKD Courts, Delhi.
6. The Principal District & Sessions Judge, Central District, Tis Hazari Courts, Delhi.
7. The Principal District & Sessions Judge, West District, Tis Hazari Courts, Delhi.
8. The Principal District & Sessions Judge, North District, Tis Hazari Courts, Delhi.
9. The Principal District & Sessions Judge, North-West District, Rohini Courts, Delhi.
10. The Principal District & Sessions Judge, Outer District, Rohini Courts, Delhi.
11. The Principal District & Sessions Judge, Rohini District, Rohini Courts, Delhi.
12. The Principal District & Sessions Judge, South District, Saket Courts, Delhi.
13. The Principal District & Sessions Judge, South-East District, Saket Courts, Delhi.
14. The Principal District & Sessions Judge, South-West District, Saket Courts, Delhi.
15. The Principal District & Sessions Judge, New Delhi District, PHC, Delhi.
16. Sh. Sonu Agnihotri, ASJ-03, South East, Saket Courts, Delhi. /Or Successor Court
17. Learned Dirctor (Academics) Delhi Judicial Academy. Integrated campus for Delhi Judicial Academy and National Law University, Sector 14, Dwarka, New Delhi-110078
18. The Commissioner of Delhi Police, Delhi Police Headquarters, Jai Singh Road, New Delhi- 110001

Crl. M.A. 12072/2023 in W.P (CRL) 2236/2022

Ajit Kumar Petitioner(s)

VERSUS

The State (NCT of Delhi) Respondent (s)

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA R/W SECTION 482 CR.P.C. SEEKING ISSUANCE OF WRIT OF MANDAMUS OR CERTIORARI OR ANY OTHER WRIT OR DIRECTION THEREBY QUASHING THE ORDER DATED 06.09.2022 PASSED BY SH. SONU AGNIHOTRI, ADDITIONAL SESSIONS JUDGE-03, SOUTH EAST, SAKET COURTS, NEW DELHI IN CA NO. 573/2019 TO EXTENT THAT THE LD.ASJ WAS PLEASED TO DIRECT THE COMMISSIONER OF POLICE TO TAKE CORRECTIVE MEASURES AND TAKE ACTION AGAINST THE PETITIONER.

Sir,

I am directed to forward herewith for immediate compliance/necessary action a copy of judgment/order dated **17.10.2023** passed in the above case by **HMJ Swarana Kanta Sharma** of this Court.

Other Necessary directions are contained in the enclosed copy of order.

Yours faithfully

22/11/23

AOJ(Crl.)
for Registrar General

Encl : Copy of order dated 17.10.2023
memo of parties

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (CRL) NO _ ___ OF 2022

IN THE MATTER OF :

AJIT KUMAR ... PETITIONER

VERSUS

STATE (GNCT OF DELHI) ..... RESPONDENT

MEMO OF PARTIES

AJIT KUMAR
S/O LATE ISHWAR CHANDRA UPADHYAY
R/O J69, PARYAVARAN COMPLEX,
NEW DELHI
Presently Serving as SHO
PS GK-I, New Delhi
Email : ajit2bindu@yahoo.com
Mobile no.: 9910190643 .... PETITIONER

VERSUS

STATE (GNCT OF DELHI) ... RESPONDENT

CA No. 5../2019
Titled as Amitabh Tanya vs Sidharth Sharma
pending in the court of
Sh. Sonu Agnihotri,
Additional Sessions
Judge Saket Courts,
New Delhi.

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA R/W SECTION 482 CR.P.C. SEEKING ISSUANCE OF WRIT OF MANDAMUS OR CERTIORARI OR ANY OTHER WRIT OR DIRECTION THEREBY QUASHING THE ORDER DATED 06.09.2022 PASSED BY SH. SONU AGNIHOTRI, ADDITIONAL SESSIONS JUDGE-03, SOUTH EAST, SAKET COURTS, NEW DELHI TO EXTENT THAT THE LD.ASJ WAS PLEASED TO DIRECT THE COMMISSIONER OF POLICE TO TAKE CORRECTIVE MEASURES AND TAKE ACTION AGAINST THE PETITIONER.

PETITIONER

PLACE NEW DELHI
DATED: 19.09.2022

THROUGH

(VIKAS ARORA)
ADVOCATE
D.NO. D/2309/9
ARORA LAW OFFICE
A - 5, LAJPAT NAGAR - II
NEW DELHI - 1100 2
+91 - 9811414411
vikasvicky@hotmail.com

$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on: 22.09.2023***
Pronounced on: 17.10.2023

\+ **W.P.(CRL) 2236/2022**

AJIT KUMAR ..... Petitioner

Through: Petitioner in person.

versus

STATE (NCT OF DELHI) .... Respondent

Through: Mr. Sanjeev Bhandari, ASC (Criminal) alongwith Mr. Kunal Mittal and Mr. Arjit Sharma, Advocates for the State.
Mr. Sagar Puri, Mr. Nikhil Rohatgi, Mr. Siddhant Nath and Mr. Anil Kumar Mishra, Advocates for the applicant in CRL.M.A. 12072/2023

\+ **W.P.(CRL) 2237/2022**

AJIT KUMAR ..... Petitioner

Through: Petitioner in person.

versus

STATE (NCT OF DELHI) ..... Respondent

Through: Mr. Sanjeev Bhandari, ASC (Criminal) alongwith Mr. Kunal Mittal and Mr. Arjit Sharma, Advocates for the State.

Mr. Sagar Puri, Mr. Nikhil Rohatgi, Mr. Siddhant Nath and Mr. Anil Kumar Mishra, Advocates for the applicant in CRL.M.A. 12371/2023

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

CRL.M.A. 12072/2023 (for) in W.P.(CRL) 2236/2022

CRL.M.A. 12371/2023 (for) in W.P.(CRL) 2237/2022

1. These applications under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C') have been filed on behalf of applicant seeking recalling of common judgment dated 22.11.2022 passed in above-captioned writ petitions thereby praying *inter alia* for expunging/deletion of remarks made against the applicant i.e. then learned Additional Sessions Judge-03, South East, Saket Courts, New Delhi in the said judgment passed by this Court.

2. Learned counsel for the applicant states that this Court was deliberately mislead to believe that *firstly*, there was no lapse on the part of petitioner and *secondly*, that directions passed by the applicant against petitioner were disproportionate and not in accordance with law. It is stated that directions issued by the applicant and the observations made against the petitioner were permissible as per Delhi Police (Punishment and Appeal) Rules, 1980. It is further submitted the judgment dated 22.11.2022 was circulated among all judicial officers of Delhi as per the direction of this Court, however,

the circular issued for the said purpose also contained the name of the applicant as one of the addressee. It is argued by learned counsel for the applicant that the observations made in paragraph nos. 30 to 38 of the judgment dated 22.11.2022 are in the nature of strictures against the applicant i.e. a judicial officer and, therefore, be expunged from the judgment.

3. The arguments addressed by learned counsel for the applicant have been heard and material placed on record by the applicant has been considered.

4. This Court has gone through the contents of paragraph nos. 30 to 38 of the judgment dated 22.11.2022, however, this Court is of the opinion that the observations made in the said paragraphs do not refer to the applicant at all, but to the orders passed by the learned ASJ. While this Court was dealing with the jurisprudence of strictures, this Court was highly conscious of its duty of itself not indulging in passing any disparaging or sweeping remarks against any person including the learned ASJ.

5. It is crucial to consider that in the judicial hierarchical system that works in our country, an order passed by one court can be challenged as per law in the superior court. Thus, an order passed by a Magisterial Court can as per law be challenged before the Sessions Court, orders of the Sessions Court can be challenged before the High Court and an order passed by the High Court will either go to Division Bench and/or thereafter, if challenged, to the Hon'ble Apex Court. The hierarchical system of judicial adjudication is intended to ensure that in case any incorrect law is applied or if the judicial

adjudication of a matter by one particular court is not as per law and judicial precedents, or is against principles of natural justice, etc., the same can be corrected by its immediate higher court. Therefore, it is to be remembered that **the process of challenging of an order when placed before a higher court does not bring into question, in majority of cases, the judge passing the order, but the order passed by judge,** and there is a marked difference between the two. It is not the judge who is in question, scrutiny, or adjudication, rather the order passed by the judge, to the best of his capabilities, which can be scrutinized and questioned by a higher court. In these circumstances, even the orders of this Court are challenged and at times set aside by the Hon'ble Supreme Court which is in line with judicial hierarchical system of our country. Therefore, in this Court's opinion, the vociferous repeated argument of the learned counsel for the applicant does not have merit since there is no observation in the said paragraphs which refers to the judge in question i.e. the applicant in a manner which can be termed as strictures against him or can affect his future prospects.

6. In case, such applications are filed before the Courts, it will become impossible for the higher courts to decide and set aside any order passed by a court whose order has been impugned before it. While adjudicating a case and appreciating an order assailed before it, the higher court has to refer to its merits and as to why it is correct or incorrect as per law, as to whether it suffers from any infirmity or not, whether the court has exceeded its jurisdiction, whether the order is according to the judicial precedents and principles of natural

justice as well as the jurisprudence it deals with. In such circumstances, this Court is of the opinion that **this Court has neither referred to the judicial competence of the judge in question/applicant nor anything on his personal capacity as a judicial officer, but had referred only to the contents of the impugned order** and, therefore, to that extent, this Court is of the opinion that there is no merit in the application filed before it.

7. Therefore, for the reasons stated hereinabove, the prayer seeking re-call of the judgment dated 22.11.2022 and deletion of certain paragraphs from the judgment stands *rejected.*

8. This Court, however, has been disturbed by the fact pointed out before it by the learned counsel for the applicant that since the judgment was ordered to be circulated for the benefit of all learned judicial officers of Delhi, the name of the concerned judicial officer i.e. the applicant was mentioned in the circular of the Registry. This Court in the judgment dated 22.11.2022 had only ordered the judgment to be circulated among all judicial officers, which is done through learned Principal & District Sessions Judge of each district and to be forwarded to the Delhi Judicial Academy, and had not passed any order that the order be communicated to the concerned Judge. However, in case it was even to be sent to the judge concerned, the name of the judicial officer should hot have been mentioned in the circular/covering letter which was to be circulated to all the judicial officers of Delhi. Needless to say, on the same principles, when the judgment in this case was passed, the name of the judicial officer in question was not mentioned even once in the

entire judgment, being conscious of the fact that it was the judicial correctness of the order which was in question and under consideration and not the judicial competence of the judicial officer concerned.

9. The judgment dated 22.11.2022 of this Court had also referred to the concerned Court by its number and designation, and not by the name of the judicial officer. Needless to say, it is individual choice of every Court/Bench concerned to include or not include the name of judicial officer whose order is under challenge. Having been a proud member of the Delhi Judicial fraternity, this Court can understand, appreciate and feel as to how the judicial officer may feel in case his/her name is circulated along with the judgment to all the judicial officers in Delhi and the circular being in public domain. **The discomfort felt in such circumstances cannot be undermined, and thus, this Court speaking for itself, directs that henceforth, any order directed to be circulated by this Bench/undersigned will not find mention of the concerned judicial officer's name in the covering letter/circular circulated by the Registry to the District Courts and will refer to court number concerned as the judges preside over the courts, and the courts do not preside over the judges.**

10. At the cost of repetition, this Court wants to place on record its highest respect for all the judicial officers of Delhi and the fact that it is their orders impugned before this Court which come under scrutiny and question while discharging this Court's judicial functions and not the judicial officers themselves. This Court also hopes that this order

acts as a healing balm for the judicial officer concerned/applicant since the circulation of his name along with the judgment dated 22.11.2022 has hurt him and caused discomfort to him.

11. Accordingly, in view of the aforesaid observations, the present applications stands disposed of.

12. The Registry shall take note of the directions issued hereinabove.

13. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

OCTOBER 17, 2023/zp