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

+ W.P.(CRL) 2096/2021 &CRL.M.A. 16898/2021

MOHD AREEB UMAR Petitioner

Through: Mr. M. Sufian Siddiqui and Mr.
Rakesh Bhugra, Advocates.

versus

THE STATE NCT OF DELHI Respondent

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **27.10.2021**

The hearing was conducted through video conferencing.

1. The petitioner seeks the following reliefs:

“ ...

- a. *Direct the respondent to conduct de novo Preliminary Inquiry in a fair, impartial and time-bound manner and in conformity with the 'principles of natural justice' under the direct supervision of the Deputy Commissioner of Police, Vigilance or by a Police Official of a higher rank on the Petitioner's Complaint dated: 26.01.2021 and the communications sent subsequent thereto concerning the incident dated: 25.01.2021, which discloses commission cognizable offences inter-alia grievous hurt, illegal detention, extortion, merciless beating by the officials Police Post Turkman Gate, P.S. Chandni Mahal, Central-District, Delhi. And*
- b. *Direct the Commissioner of Police, Delhi to issue a Standing Order whereby a pragmatic mechanism is formulated in conformity with the most sacrosanct unwritten*

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KUMAR

Signing Date: 08.11.2021
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principle of law (jus non scriptum) i.e. 'principle of natural justice' to mandatorily transfer all the complaints to the Vigilance Department for the purposes of carrying out the Preliminary Inquiry as contained in the Constitution-Bench judgment of 'Lalita Kumari vs Govt. of U.P' apropos the complaints concerning allegations against the Delhi Police officials. And

c. Pass any other further order(s), which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. The petitioner complains of being mercilessly beaten, ill-treated and grievously injured by Delhi Police personnel on 25.01.2021. His complaint to the Commissioner of Police about the assault is annexed to the petition as Annexure P-1. The petitioner was never called for any enquiry apropos the alleged assault and/ or the resultant injuries.
3. Photographs annexed to the petition show that the petitioner is being assaulted by persons in police uniform. The said photographs are reproduced hereunder:









4. The said assault is questionable, as the law does not permit people to be beaten up in police custody even during interrogation.
5. The learned ASC for GNCTD submits that there is an immediately preceding occurrence, which led to strict action being taken against the complainant/ petitioner. He has shown the court a video recording about a fracas right outside the police station, between private parties, who had moments earlier left the police station; he says that the police had rushed there to break-up the melee, lest a serious untoward incident occur; which could lead to a law and order situation, especially on the eve of the Republic Day functions.
6. An initial inquiry was conducted by the Inspector (Vigilance) and the matter has been closed, as if nothing noteworthy or actionable happened. The petitioner is aggrieved that he was neither called for any inquiry nor were the injuries, sustained by him as a result of the said assault, examined or considered. He was never heard in any inquiry. Therefore, he contends that the so-called inquiry is a sham and mere paperwork. He seeks that an inquiry to be conducted by an

officer of a higher rank.

7. To inspire confidence in an inquiry, fairness of the procedure adopted and examination of the substantive issues, must be apparent. This fundamental principle has not been observed in the so-called “inquiry report”. Therefore, it is of no consequence.
8. A fresh inquiry is warranted because *ex facie* the photographs and the video show that two men (said to be the petitioner and his well-wisher) being assaulted repeatedly by a posse of policemen who are in uniform and in civilian attire. The violent pushing, punching and elbow-strikes, start the moment they enter into the precincts of the police station. The two civilians were not violent when they are walked into the said precincts. They possibly could not because they were surrounded and held by policemen. No unruliness or assault is seen on any policeman by the petitioner or his well-wisher. For the physical assault and beating given to the private individuals, there appears no immediate provocation, perhaps it was because of some pique of the policemen.
9. Punishment for an assault or a criminal act is to be determined by a court of law. The police cannot be a judge in its own cause. The law does not permit people to be beaten-up in police custody or during interrogation. The assault by the police on the petitioner and his associate is questionable. One can never be too vigilant about the rights of citizens being violated or any callousness or over-reaction by law-enforcers which may lead to an unfortunate incident or tragedy. Let no one have to repeat the tragic last words like George Perry Floyd, Jr.: “I can’t breathe”.

10. In the circumstances, let an inquiry be conducted by the Deputy Commissioner of Police (Vigilance). This petition shall be treated as the petitioner's representation to the police. The petitioner shall be heard, through counsel as well, within four weeks from receipt of this order. The decision/report/action-taken be communicated to the petitioner, within two weeks thereafter.
11. Other reliefs are not pressed. The petition, along with pending application is disposed-off in the above terms with liberty to the petitioner to pursue his remedies as may be available in law.
12. The order be uploaded on the website forthwith.

NAJMI WAZIRI, J

OCTOBER 27, 2021
SS

\$~50(1)

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

+ W.P.(CRL) 679/2021

UMAIR SIDDIQUI Petitioner

Through: Mr. M. Sufian Siddiqui and Mr.
Rakesh Bhugra, Advocates.

versus

THE STATE NCT OF DELHI Respondent

Through: Ms. Richa Kapoor (ASC CrI) with
Ms. Surabhi Katyal and Ms. Shivani
Sharma, Advocates for the State

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **27.10.2021**

The hearing was conducted through video conferencing.

1. The petitioner seeks the following reliefs:

“

- a. *Direct the respondent to conduct and conclude the Preliminary Inquiry in a fair, impartial and time-bound manner under the direct supervision of a Joint Commissioner of Police or by a Police Officer of a higher rank on the Petitioner's Complaint dated: 27.01.2021 and the communications sent subsequent thereto concerning the incident dated: 25.01.2021, which discloses commission of cognizable offences inter-alia grievous hurt, illegal detention, merciless beating by the officials of Police Post Turkman Gate, P.S. Chandni Mahal, Central-District, Delhi. And*
- b. *Direct the respondent to forthwith secure and place on record the CCTV footage of all the Cameras installed in and around the Police Post Turkman Gate, P.S. Chandni Mahal, Central*

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KUMAR

Signing Date: 08.11.2021
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District, Delhi pertaining to the incident dated: 25.01.2021 from 09.00 P.M onwards till midnight, before this Hon'ble Court, in terms of the Hon'ble Supreme Court's judgment dated: 02.12.2020 passed in the case of "Paramvir Singh Saini vs Baljit Singh & Others" Special Leave Petition (Criminal) No.3543/2020. And

- c. Direct the respondent to formulate a pragmatic mechanism to ensure strict compliance of the directions as contained in Parano.120 of the Supreme Court's judgment viz. 'Lalita Kumari vs Govt of U.P.' and Para no. 24 of this Hon'ble Court's judgment viz. 'Kirti Vashisht vs State & Ors.'. And*
- d. Grant any other further relief, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."*

2. The petitioner complains of being mercilessly beaten, ill-treated and grievously injured by Delhi Police personnel on 25.01.2021. His complaint to the Commissioner of Police about the assault is annexed to the petition as Annexure P-1. The petitioner was never called for any enquiry apropos the alleged assault and/ or the resultant injuries.
3. Photographs annexed to the petition show that the petitioner is being assaulted by persons in police uniform. The said photographs are reproduced hereunder:







4. The said assault is questionable, as the law does not permit people to be beaten up in police custody even during interrogation.
5. The learned ASC for GNCTD submits that there is an immediately preceding occurrence, which led to strict action being taken against the complainant/ petitioner. He has shown the court a video recording about a fracas right outside the police station, between private parties, who had moments earlier left the police station; he says that the police had rushed there to break-up the melee, lest a serious untoward incident occur; which could lead to a law and order situation,

especially on the eve of the Republic Day functions.

6. An initial inquiry was conducted by the Inspector (Vigilance) and the matter has been closed, as if nothing noteworthy or actionable happened. The petitioner is aggrieved that he was neither called for any inquiry nor were the injuries, sustained by him as a result of the said assault, examined or considered. He was never heard in any inquiry. Therefore, he contends that the so-called inquiry is a sham and mere paperwork. He seeks that an inquiry to be conducted by an officer of a higher rank.
7. To inspire confidence in an inquiry, fairness of the procedure adopted and examination of the substantive issues, must be apparent. This fundamental principle has not been observed in the so-called “inquiry report”. Therefore, it is of no consequence.
8. A fresh inquiry is warranted because *ex facie* the photographs and the video show that two men (said to be the petitioner and his well-wisher) being assaulted repeatedly by a posse of policemen who are in uniform and in civilian attire. The violent pushing, punching and elbow-strikes, start the moment they enter into the precincts of the police station. The two civilians were not violent when they are walked into the said precincts. They possibly could not because they were surrounded and held by policemen. No unruliness or assault is seen on any policeman by the petitioner or his well-wisher. For the physical assault and beating given to the private individuals, there appears no immediate provocation, perhaps it was because of some pique of the policemen.
13. Punishment for an assault or a criminal act is to be determined by a

court of law. The police cannot be a judge in its own cause. The law does not permit people to be beaten-up in police custody or during interrogation. The assault by the police on the petitioner and his associate is questionable. One can never be too vigilant about the rights of citizens being violated or any callousness or over-reaction by law-enforcers which may lead to an unfortunate incident or tragedy. Let no one have to repeat the tragic last words like George Perry Floyd, Jr.: “I can’t breathe”.

14. In the circumstances, let an inquiry be conducted by the Deputy Commissioner of Police (Vigilance). This petition shall be treated as the petitioner’s representation to the police. The petitioner shall be heard, through counsel as well, within four weeks from receipt of this order. The decision/report/action-taken be communicated to the petitioner, within two weeks thereafter.
9. Other reliefs are not pressed. The petition, along with pending application is disposed-off in the above terms with liberty to the petitioner to pursue his remedies as may be available in law.
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NAJMI WAZIRI, J

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