

AJAY KUMAR JAIN
Spl Judge NDPS Act
Room No P.1 P Building
Patiala House Courts
New Delhi

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Hiralal Gupta Vs. Awninder Pratap Pandey & Ors.
Case No. CR/13/2020

27.01.2020

Vide this order, I shall dispose of the present revision petition.

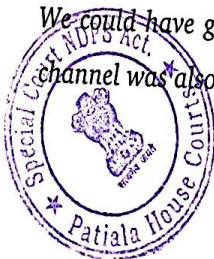
Vide this revision petition, the revisionist/complainant has challenged the impugned order dated 06.01.2020 passed by the Ld. ACMM dismissing the complaint filed by the complainant/revisionist Hira Lal Gupta (father of convict Pawan Kumar Gupta).

Brief facts as per the complaint dated 11.12.2019 filed before the trial court by the revisionist being the father of the accused Pawan Kumar Gupta, who already stands convicted in case FIR no. 413/12 for offence u/s 376(g), 302/34 IPC PS Vasant Vihar (Nirbhaya case), that on 01.11.2019 the complainant at his residence learned from social media particularly Twitter, a very sensitive post/twitter broadcasted from the private Twitter account of Mr. Ajeet Anjum, former Managing Director of popular national Hindi news channel 'News 24' and 'India TV' in which he disclosed that the important and sensitive information of the sting operation of sole eye witness Awninder Pratap Pandey. The sting operation alleged to be conducted by Ajeet Anjum himself. The tweets reproduced as under:

'To Nirbhaya that friend I made him to listen as much as I can, the whole news room was in favor to make that particular show to go on air except me, after recording it was me, who decided against sting it for on Air. After recording, I thought this particular thing can be used by defence lawyer in their favour.'

'At that time Ravina Raj Kohli working as consultant in News 24 have pressed him several times for making that on air. But I had my own logic and CMD of company Ms. Anuradha Prasad agreed in the and to stop this sting interview. We decided to do that even without bothering about TRP of News Channel.'

'At that time when several news channels were broadcasting long interviews of this friend of Nirbhaya. Then if we had relived this special program and sting of 1 hour. We could have get rating from all over and nationwide discussions and popularity of channel was also bound to increase, even after much thoughts I decided not to set it go



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on air.'

'And yes, we could have done this that after paying money we could get his even after doing sting and increase TRP, just because it could have effected the case.'

'I humiliated him outside the studio after sting and show by saying the go and let him go after giving him the warning that if he will try to sale the story of Nirbhaya for money then I will expose him. He asked for forgiveness and went after promising not to do so again and he was not seen for many years.'

It is further averred in the complaint that these tweets clearly suggest the conduct of Awninder Pratap Pandey and his testimony in the said false and fabricated. Thus, a complaint was filed before the R.K. Puram Police Station on 02.11.2019 however when no action is taken thereafter, the complaint u/s 156(3) r/w 200 Cr.PC was filed before the court of Additional Chief Metropolitan Magistrate.

Ld. Counsel for the revisionist submits that trial court has not adopted the fair procedure in disposing of the present complaint. Ld. Counsel submits that proper course of Ld. Trial court is to call for action taken report on this, however no such action was taken by trial court. Ld. Counsel submits that trial court not only dismissed prayer u/s 156(3) Cr.PC but also the complaint. Ld. Counsel submits that complainant in case of dismissal of prayer of 156(3) Cr.PC should be given opportunity to lead complainant evidence in terms of section 200 Cr.PC however the said procedure is not followed. Ld. Counsel submits that revisionist are victim of media trial and proper hearings are not provided to the revisionist. Ld. Counsel submits that the tweets of Ajeet Anjum suggest that the conduct of eye witness is suspicious even over the fact that he helped the deceased when the incident occurred. This eye witness has accumulated money worth of lacs or crores by bargaining /bribe from news channels and others with his maternal uncle. Furthermore the father and jija of witness have criminal records having more than 40 criminal cases. Ld. Counsel submits that allegations of the managing director of news channel that eye witness accepting the money is to be ascertained through trial and there is no ground to dismiss the complaint at threshold itself without



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proper opportunity. Ld. Counsel submits that purpose of courts is that truth should surface and therefore the complainant be not deprived of his right to surface the truth through trial, therefore trial court be directed to give opportunity to complainant to lead pre summoning evidence and thereafter to deal the case according to law.

Ld. Addl. PP on the other hand submitted that the complaint as filed is not at all maintainable in view of bar u/s 195(b)(i) Cr.PC as the offence alleged to be disclosed u/s 193 and 194. Ld. Addl. PP submits that trial court vide impugned order clearly dealt with that aspect and there is no infirmity in the impugned order passed by the trial court. Ld. Addl. PP submits that accused Pawan Kumar Gupta is indirectly trying to stall the proceedings of execution by moving all these petitions through his father without any locus. Ld. Addl. PP submits that the tweets have nothing to do with the case already decided and all the remedies till the Hon'ble Supreme Court or even the mercy petition of co-accused has already been dismissed. Ld. Addl. PP submits that the filing of this revision petition is completely malafide and is liable to be dismissed forthwith with costs.

Ld. Counsel on behalf of parents of victim of FIR case submitted that this plea of tweets has already been taken by accused Pawan Kumar Gupta in the review petition filed by accused Pawan Gupta before Hon'ble Supreme Court of India and the Hon'ble Supreme court of India has already dismissed the said review petition. Ld. Counsel submitted that victim is running pillar to post for justice and convicts are inventing one or other procedure to delay the execution.

Heard. Record perused.

The complaint was filed before the trial court for initiation of action for perjury, in view of the tweets of newspaper editor, against the eye witness Awninder Pratap Pandey of main FIR no. 413/12, however, the trial has already been completed. The appeals upto the stage of Hon'ble Supreme court have already been dismissed. This ground taken in review petition of accused Pawan Kumar Gupta however the said review petition has already been dismissed. Even otherwise, no court can take the cognizance of perjury committed u/s

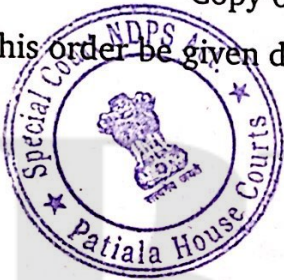


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191/193/194 Cr.PC due to bar u/s 195(b)(i) Cr.PC as the complaint for invoking the offence of perjury as alleged is to be made in writing by the court or the officer appointed by the court however the said procedure is conspicuously absent. The complaint therefore rightly dismissed by the trial court vide impugned order dated 06.01.2020. The acts of complainant who is father of convict Pawan Kumar Gupta appear desperate and malafide, however when his son is one step away from the gallows, no costs are required to be imposed. The present revision petition has no merits hence, dismissed.

Copy of this order alongwith TCR be send back to trial court. Copy of this order be given dasti to the parties. File be consigned to record room.



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(Ajay Kumar Jain)
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