

Mrs. Susheela Misra

Vs

Delhi Administration

Writ Petition (Criminal) No. 1099 of 1983

(D. A. Desai, V. B. Eradi JJ)

29.08.1983

ORDER

1. We issued notice in this matter pursuant to a letter received by the Hon'ble the Chief Justice of India treating it as a writ petition under Article 32 of the Constitution. The letter was written by Mrs. Susheela Misra wife of one Mr. V. S. Misra, who retired as Joint Secretary in the Ministry of Commerce. The grievance broadly stated was that the police officers working under the Delhi Administration were unnecessarily harassing Mr. Misra by visiting her house at odd hours, by compelling Mr. V. S. Misra to go to police station under the pretext of questioning him and detained there for long hours and harassed and tortured. In response to the notice, an affidavit was filed by Mr. B. K. Gupta, Deputy Commissioner of Police, stating therein that an enquiry was going on with regard to a suspected case of espionage in which a Western Mission located in India was involved and that Mr. V. S. Misra was in possession of some vital information and was in a position to shed light on some of the important aspects of this investigation. It was further stated that for these reasons it had become necessary to call him for questioning and that the officers were empowered under Section 8 of the Official Secrets Act, 1923 to summon anyone for questioning to elicit information. The allegation of harassment was denied and it was stated that in the exercise of power conferred by Section 8 of the Official Secrets Act, 1923 investigation was carried on. After the counter-affidavit was filed, we directed the petitioner, the wife of Mr. V. S. Misra, whose letter has been treated as writ petition, to file a rejoinder and we also requested Mr. V. J. Francis, learned counsel appearing for the petitioner, to file an affidavit of Mr. V. S. Misra himself. Mr. V. S. Misra merely adopted the rejoinder affidavit filed by his wife the petitioner, but there is not a whisper of harassment which he is alleged to have suffered.

2. When the petition was taken up today, Mr. K. G. Bhagat, learned counsel for the respondent, stated that hereafter whenever it becomes necessary to question and elicit information from Mr. V. S. Misra in connection with investigation under progress a written request would be sent to him under the authority of an officer competent to do so specifying therein time and place when Mr. V. S. Misra must attend and he would be questioned for a reasonable period and if further questioning is necessary the same procedure would be followed. We direct that this questioning must be during the day time and in no case after sunset and before sunrise.

3. Some grievance was made by Mr. V. J. Francis, learned counsel for the petitioner, that the police officer should not visit the house of Mr. V. S. Misra. Such a blanket direction cannot be given and it is assumed that police officers would be behaving in a reasonable and responsible manner consistent with the duties which they are bound to discharge.

4. The directions herein given should satisfy the petitioner but if any legitimate grievance in this

connection surfaces the petitioner is at liberty to move the Court. With this observation, the writ petition is disposed of.

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