

**In the Court of State Commissioner for Persons with Disabilities  
National Capital Territory of Delhi  
25- D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-2  
Phone-011-23216002-04, Telefax: 011-23216005, Email: [comdis.delhi@nic.in](mailto:comdis.delhi@nic.in)  
[Vested with powers of Civil Court under the  
Rights of Persons with Disabilities Act, 2016]**

**Case No. 4/1272/2016-Wel/CD/ 1815-17**

**Dated: 12/09/2017**

**In the matter of:**

Sh. Pawan Jolly,  
A-40, Ground Floor , Defence Colony,  
New Delhi-110024.

**..... Complainant**

**Versus**

The Commissioner,  
Police Head Quarter, Mso Building,  
I.P. Estate, New Delhi-110002.  
New Delhi-110002.

**.....Respondent No.1**

**Date of hearing:** 06.09.2017

**Present** Sh. Pawan Jolly, Complainant.  
Sh. Jagdish Yadav, ACP/Defence Colony  
on behalf of Respondent

**ORDER**

The above named complainant, a person with 100% visual impairment vide his complaint dated 04.05.2016 submitted that he is a owner and resident of J-38, Ground Floor, Scuth Extension, Part-I, New Delhi. He is married for 18 years and has 15 and a half years old son Master Manan Jolly who is also a child with 100% disability due to Cerebral Palsy since birth. After the death of his mother, his wife Ms. Rachna Jolly, her mother and brothers who are living in Ludhiana did not treat him properly. His wife Mrs. Rachna Jolly, her mother and brothers started pressuring him to put his property in the name of his wife. As he refused to do so, his wife started humiliating him publically by abusing him, using filthy language and calling him 'Andha'. She also filed case in the Court for her share in the property and domestic violence which are pending in the Court. The complainant also submitted that on 14<sup>th</sup> August 2014, his wife assaulted him physically and falsely implicated him

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in a police case which had been dismissed. He also alleged that his wife threw away his medicines and eye drops and was harassing him and he feared for his son and himself. He requested for protection.

2. The complaint was taken up with Dy. Commissioner of Police(South District) vide communication dated 17.05.2016 and 15.06.2016. The respondent vide report dated 23.06.2017 informed that during the course of enquiry, it came to the light that various suits have been filed by both the parties against each other and a kalandra U/S 107/151 Cr. P.C. was found prepared by SI Amrender Singh against the complainant. An FIR No. 359/15 U/S 498-A/406 IPC was also found registered against the complaint by Mrs. Rachna Jolly which has been sent to the Mahila Court, SE District, Saket Court, Delhi and is pending. In the conclusion it is stated that *"In view of the above facts and circumstances, it cannot be ruled out the present complainant is trying to pressurize Mrs. Rachna Jolly and filing counterblast complaints. Allegation levelled against Mrs. Rachna Jolly cannot be substantiated. No witness has been produced by the complainant. Matter is already pending subjudice before the Hon'ble Court and no action is warranted by the local police at this stage. Hence, the complaint may be filed please."*

3. The SHO, Kotla Mubarakpur recorded as under:-

*"The matter is sub-judice and no action is warranted by the local police at this stage. Hence, the papers may please be filed"*.

The Asstt. Commissioner of Police directed *"May be filed"* on 23.06.2016.

4. The reply of the respondent was forwarded to the complainant for his comments. Complainant vide his rejoinder dated 22.03.2016 submitted that the enquiry finds are totally biased and influenced and thus not the truth. He inter-alia stated that the kalandra U/S.107/151 Cr. P.C. was a conspiracy and influence used in PS Kotla Mubarakpur was evident. Based on the findings, he had been discharged from the said kalandra. Therefore, report submitted by the concerned S.I. was incorrect. He also submitted that it was incorrect to say that there was an FIR U/S 406 IPC against him. He feared that his son is being used to mentally harass and traumatize him. In view of this, the matter was taken up with the Commissioner of Police, Delhi vide Notice dated 18.04.2017 calling for the version of

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the case. In response, Addl. Dy. Commissioner of Police (South District) confirmed that the complainant was discharged in the kalandra U/S 107/151 Cr.P.C. by the learned SEM Court/SD dated 13.03.2015 vide letter dated 29.07.2017. He also confirmed that FIR No. 359/15 u/s 498/A-406 IPC was registered against the complainant but the charge sheet was filed u/s 498-A IPC in the Court. In conclusion it was stated that the matrimonial dispute between the complainant and his wife Mrs. Rachna Jolly was sub-judice in the Hon'ble Court. No fresh action was required on the part of local police. Thereafter a hearing was scheduled on 05.09.2017.

5. During the hearing on 05.09.2017, reiterating his written submissions, the complainant submitted that he and his son Master Manan Jolly, a child with 100% Cerebral Palsy, are undergoing tremendous torture and at times physical assault which is a matter of record. He requested that constant vigil and monitoring should be ensured by the Police by deputing a female Police Officer. He stated that he is under constant mental pressure and threat and fears for his and his son's life and safety.

6. Sh. Jagdish Yadav ACP, Defence Colony who appeared on behalf of the respondent submitted that the police after detailed investigation has already submitted report dated 29.07.2017 which contains correct facts of the case. He further stated that he has assured the complainant, and his sister to get in touch with him and the Police Station in case of need. S.H.O. (Kotla Mubarakpur) has also been instructed to take care of complainant who is a person with visual impairment and his son, a child with Cerebral Palsy. If needed, female police personnel can also be deputed. As far as the police is concerned, it will take all actions as per law.

7. It is brought to the notice of the parties that Section 80 of the Rights of Persons with Disabilities Act, 2016 (RPwD Act) inter-alia mandates the State Commissioner for Persons with Disabilities to inquire suo-motu or otherwise deprivation of rights of persons with disabilities and safeguards available to them and take up the matter with appropriate authorities for corrective action. Section 7 of the said act reads as under:

*"7. (1) The appropriate Government shall take measures to protect persons with disabilities from all forms of abuse, violence and exploitation and to prevent the same, shall—*

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(a) take cognizance of incidents of abuse, violence and exploitation and provide legal remedies available against such incidents;

(b) take steps for avoiding such incidents and prescribe the procedure for its reporting; (c) take steps to rescue, protect and rehabilitate victims of such incidents; and

(d) create awareness and make available information among the public.

(2) Any person or registered organisation who or which has reason to believe that an act of abuse, violence or exploitation has been, or is being, or is likely to be committed against any person with disability, may give information about it to the Executive Magistrate within the local limits of whose jurisdiction such incidents occur.

(3) The Executive Magistrate on receipt of such information, shall take immediate steps to stop or prevent its occurrence, as the case may be, or pass such order as he deems fit for the protection of such person with disability including an order—

(a) to rescue the victim of such act, authorising the police or any organisation working for persons with disabilities to provide for the safe custody or rehabilitation of such person, or both, as the case may be;

(b) for providing protective custody to the person with disability, if such person so desires;

(c) to provide maintenance to such person with disability.

(4) Any police officer who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards any person with disability shall inform the aggrieved person

(a) his or her right to apply for protection under sub-section (2) and the particulars of the Executive Magistrate having jurisdiction to provide assistance;

(b) the particulars of the nearest organisation or institution working for the rehabilitation of persons with disabilities;

(c) the right to free legal aid; and (d) the right to file a complaint under the provisions of this Act or any other law dealing with such offence: Provided that nothing in this section shall be construed in any manner as to relieve the police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

(5) If the Executive Magistrate finds that the alleged act or behaviour constitutes an offence under the Indian Penal Code, or under any other law for the time being in force, he may forward the complaint to that effect to the Judicial or Metropolitan Magistrate, as the case may be, having jurisdiction in the matter."

8. Section 84 of the said act also provides that for the purpose of providing speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district, a Court of Session to be a Special Court to try the offences under this Act and Section 85 the State

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Government is also required to specify a Public Prosecutor or appoint an advocate as a Special Public Prosecutor for the purpose of conducting cases in that court. Further, Section 92 of the said Act provides:

"92. Whoever,— (a) intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view;

(b) assaults or uses force to any person with disability with intent to dishonour him or outrage the modesty of a woman with disability;

(c) having the actual charge or control over a person with disability voluntarily or knowingly denies food or fluids to him or her;

(d) being in a position to dominate the will of a child or woman with disability and uses that position to exploit her sexually;

(e) voluntarily injures, damages or interferes with the use of any limb or sense or any supporting device of a person with disability;

(f) performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine".

9. Since the complainant has already filed a divorce petition in the District Court Saket, he may bring the provisions of the RPwD Act, 2016 to the notice of the Hon'ble Court. As regards his and his son's safety, the local police is already providing the assistance as and when required by the complainant. It is expected that the police will continue providing such assistance and protection to the complainant and his son both of whom are persons with disabilities in light of the provisions of the RPwD Act, 2016. It will be in the fitness of things for this Court to bring the provisions of the RPwD Act, 2016 to the notice of Smt. Rachna Jolly, wife of the complainant also. A copy of this order is therefore being marked to his wife at the address J-38, South Extension, Part-1, Ground Floor, New Delhi-110049 as provided by the complainant.

9. The matter is disposed of accordingly.  
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10.  
September 2017



Given under my hand and the seal of the Court this 12<sup>th</sup> day of

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Room No. : T-12.9.17  
(T.D. Dhariyal)  
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**State Commissioner for Persons with Disabilities**

Copy to : - Mrs. Rachna Jolly, Wife of Sh. Pawan Jolly, R/o J-38, South Extension, Part-I,  
Ground Floor, New Delhi-110049.