

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. 4/1357/2016-Wel./CD/ 3664-66

Dated: 02/01/2018.

In the matter of:

Sh. Shatrughan Nayak,  
399, Sector-9,  
R.K. Puram, New Delhi-110022

..... Petitioner

**Versus**

Sh. Vijay Manchanda,  
Proprietor of Vandna International,  
A-34, Subhadra Colony,  
Near Shastri Nagar Metro Station,  
New Delhi-110035

..... Respondent No. 1

The Dy. Commissioner of Police, (Central District)  
Office of the Dy. Commissioner of Police,  
Delhi Police,  
New Delhi-110002

..... Respondent No. 2

**Order**

The above named complainant, vide his complaint dated 22.06.2016  
received through the Court of Chief Commissioner for Persons with

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Disabilities vide letter dated 20.07.2016 submitted that he is a person with blindness and had been working in a Private Company, Vandana International, Karol Bagh, New Delhi of Sh. Vijay Manchanda for last 11 years. After 8 years of service, Sh. Manchanda cleverly trapped him and some other employees of the same company in a corruption conspiracy. Sh. Manchanda opened his and other employees salary accounts in Dhanlakshmi Bank, Karol Bagh and took a loan of Rs. 40 Lakh in his name

against fake gold by making him sign the papers. Thereafter, they were sent to Tihar Jail. After release on bail, he protested against cheating and requested Sh. Manchanda to pay the loan that he had taken from the bank in complainant's name. The complainant also alleged that Sh. Manchanda asked the complainant to prepare fake bills of jewellery box makers. When he refused, he was asked not to come to office and he threatened him that he would get his bail cancelled and send him to jail again. Sh. Manchanda also did not clear his dues. The complainant requested for justice.

2. The complainant was taken up with the respondents vide communication dated 12.08.2016, followed by reminders dated 10.10.2016 and 30.11.2016.

3. Respondent No. 2 vide letter dated 05.12.2016 informed that an inquiry in the matter was conducted through ACP, Karol Bagh. During the inquiry the complainant stated that a case had already been registered against the alleged by the Crime Branch regarding the cheating and the case is pending in the Trial Court. As regards pending dues of the

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complainant, he has been advised to file a complaint in the Labour Court. Hence no more action was required by the police.

4. Thereafter, a hearing was scheduled on 23.01.2017 which could not be held as the respondent No. 2 informed that due to full day rehearsal of Republic Day Celebration on 2017, all the officers would be busy and therefore, another date may be fixed for hearing. The next hearing was scheduled on 28.12.2017.

5. During the hearing on 28.12.2017, Sh. Shiv Dayal, ACP, Karol Bagh on behalf of respondent No. 2 submitted that the complainant Sh. Shatrughan Nayak and opposite party i.e. Sh. Vijay Manchanda, the employer of the complainant along with others were arrested by Economic Offence Wing in case FIR No. 11/2014 u/s 420/120B IPC and the case is pending trial in the Tis Hazari Court. Police has no role to play in the matter as no cognizable offence is made out of the complaint of the complainant.

6. The complainant reiterated his written submissions and requested that directions may be issued to Sh. Vijay Manchanda to pay his outstanding dues of Rs. 72000/- on account of the salary for 6 months and other expenses that he had to incur for local travel and also from Orissa (Brahampur District). The complainant further submitted that he does not have an appointment letter or evidence for receipt of salary as he and all other employees were being paid their salary in cash. However, he has experience certificates for having worked in the shop of Sh. Vijay

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Manchanda i.e. Vandana International/Vandana Products. He emailed the copies of the experience certificates dated 30.08.2003, 14.03.2007 and 08.07.2011 which indicate that the complainant worked in the said firms.

7. Sh. Dilip who appeared on behalf of respondent no. 1 informed that a reply to the hearing notice addressed to ACP, Karol Bagh with copy to this court has been sent through the Advocate on 27.12.2017. He also stated that Sh. Vijay Manchanda is not in the town. The decision about payment of the dues of the complainant can be taken only by Sh. Manchanda. He also confirmed that he too does not have appointment letter and gets his salary in cash.

8. The relevant contents of the reply of respondent No. 1 are as under:

"(i) *The contents of the complaint under reply are totally false, flimsy and frivolous. It may be noted that the undersigned and Shatrughan Nayak are both co-accused along with 22(Twenty Two) others in F.I.R bearing number 11 of 2014 registered at Police Station: Economic Offence Wing(EOW), Delhi Police under section 120-B read with Sections 420 and 406 of the Indian Penal Code. The Charge-Sheet in the said matter has already been filed by the Investigating Officer and the matter is sub-judice before the learned Chief Metropolitan Magistrate (Central), Tis Hazari Courts, Delhi. It is further submitted that, whether the undersigned and Mr. Nayak are innocent or guilty for commission or perpetration of the alleged Crime may only be decided by the concerned Court of the Ld. CMM after appreciating the evidence before it. Mr. Nayak by way of present Complaint is trying to hoodwink the Court and other statutory authorities and is unsuccessfully*

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attempting to create a defence in his favour through a Forum, which is not even seized of the matter. It is submitted that the same is impermissible under the Law and thus the undersigned reserves his right to initiate criminal proceedings under the Contempt of Courts Act, 1971 against Mr. Nayak for trying to interfere in the administration of justice.

(ii). Further, Mr. Nayak has approached the Disabilities Commission as he alleges to be a person with Disability. It may be noted that the undersigned is also a disabled person with visual imparity of 90 %(Ninety percent). A copy of the disability certificate issued by the competent authority is appended herewith for your kind reference:

(iii) Mr. Nayak has also alleged in his complaint that the undersigned has withheld his lawful dues towards his supposed salary, however, he has failed to place on record the employment/appointment letter or any other document that can support his claim. Assuming though not admitting that the allegation has any merit in it, the said claim would fall in the exclusive jurisdiction of a Civil Court established under the Code of Civil Procedure, 1908 and thus a complaint before the Police or Disability Commission in this regard is not maintainable.

(iv) In view of the submissions made hereinabove, it is abundantly clear that the contents of the Complaint filed by Mr. Nayak don't have any iota of merit in it and prima facie the same does not indicate commission of any Cognizable Criminal Offence and thus, it is humbly requested that the present Complaint may be closed in terms of the procedure established by Law.

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(v) However, the undersigned is ready and willing to co-operate to any extent, in case your good offices desire to investigate the matter any further.

(vi) For any other/further clarification(s) or assistance, please feel free to revert."

9. Section 7 of Rights of the Persons with Disabilities Act provides that:

*"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—*

*(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;*

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(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 of—

(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."

10. Section 89 and 90 of Act provide for punishment for contravention of Provisions of the Act or rules or regulations made thereunder by any person and by companies respectively. The said sections are reproduced below:-

**"89.** Any person who contravenes any of the provisions of this Act, or of any rule made thereunder shall for first contravention be punishable with fine which may extend to ten thousand rupees and for any subsequent

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contravention with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

90. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means anybody corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm."

11. While the Court of Ld. CMM, it will be deciding the case before him/her taking into account the facts of the case and relevant provisions of the Rights of Persons with Disability Act, 2016, I would advise respondent No. 1 to release and pay the outstanding dues if any, to the complainant within 10 days from the date of receipt of this order and inform this court by

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31.01.2018 failing which the Executive Magistrate shall investigate the matter and submit his/her findings by 28.02.2018 whether respondent No. 1 owes any amount of money to the complainant on account of his salary for the period he worked for respondent No. 1 and take up with the appropriate forum/authority in addition to taking action for punishing the respondent No. 1 u/s. 89 and 90 of the Act.

12. Respondent No. 1 shall inform respondent No. 2 and this court by 06.02.2018 the date of making the payment to the complainant. In case no intimation is received by respondent No. 2 about the payment of dues by the said date, respondent No. 2 shall inform Executive Magistrate to proceed to inquire the matter as.

13. Given under my hand and the seal of the Court this 24<sup>th</sup> day of January, 2018



**State Commissioner for Persons with Disabilities**

(T.D. Dhariyal)

21/1/18  
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