

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

Crl. Misc. No.M-21784 of 2011

Date of Decision: 28.04.2015

Mohan @ Mohni

....Petitioner

Versus

State of Haryana and others

....Respondents

Crl. Rev. No.3453 of 2012

State of Haryana

....Petitioner

Versus

Paras Ram and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. R.N. Kush, Advocate
for the petitioner in
Criminal Misc. No.M-21784 of 2011
for respondent No.4
in **Criminal Revision No.3453 of 2012.**

Mr. Deepak Sabharwal, Addl. A.G., Haryana
for the respondent-State.

Mr. S.K. Verma, Advocate
for the complainant.

DAYA CHAUDHARY, J.

By this common judgment, two petitions bearing **Criminal Misc. No.M-21784 of 2011** and **Criminal Revision No.3453 of 2012** shall be disposed of.

Criminal Misc. No.M-21784 of 2011 has been filed by the

petitioner Mohan @ Mohni for seeking further investigation of the case by some independent agency preferably Central Bureau of Investigation, whereas, ***Criminal Revision No.3453 of 2012*** has been filed by State of Haryana to challenge the order dated 13.08.2012, whereby, the report submitted by the Special Investigation Team, constituted in pursuance of Order dated 02.11.2011 passed by this Court, has not been accepted.

However, for the sake of convenience, the facts are being extracted from **Criminal Revision No.3453 of 2012.**

Briefly, the facts of the case as made out in the petition are that FIR No.106 dated 28.02.2010 was registered at Police Station Narnaund, District Hisar on the basis of statement of one Ram Kesh alleging therein that Paras Ram, Om Parkash and their sons wanted to take illegal possession of the *shamlat land* and his ruries. A panchayat was also convened in this regard and the said persons were asked not to interfere in the possession. Then also, on 27.02.2010, at about 10.00 p.m., Paras Ram, Om Parkash, Vijender @ Kalu, Mala, Mohni, Bhilu, Krishan, Surender, Devi Ram, Navin, Sonu, Chand, Ganga Dutt and 4-5 other persons reached at the place of occurrence armed with *guns, pistols, lathies, jallies* and *kassies* for constructing a wall in the light of generator in order to take possession of *shamlat land* and ruries of the complainant. The said construction was opposed by the complainant and others, pursuant to which the accused persons started firing and pelting stones on the complainant party, resulting into infliction of injuries on Sanjay, Manoj @ Vinod, Azad, Sunder, Kuldeep, Balraj, Mawasi, Mahipal, Parvel, Pirthi and complainant. After hearing the gunshots, certain other persons of the locality also gathered there and on seeing them, all the accused persons ran away from the spot. Thereafter, the injured were taken to PGIMS, Rohtak by arranging a vehicle and were got admitted there but Manoj @

Vinod succumbed to injuries during his treatment.

After investigation, the challan was presented against the accused persons. Thereafter, the petitioner Mohan alias Mohni filed ***Criminal Misc. No.M-21784 of 2011*** before this Court for seeking further investigation of the case. Certain allegations were also levelled against the police officials, who investigated the case and a prayer was made for fair investigation. It was also the request that the Station House Officer concerned be made accused along with other accused. The said petition came up for hearing before this Court on 02.11.2011 and the following order was passed :-

“ This is a petition for seeking further investigation of the case bearing FIR No.106 dated 28.02.2010 under Sections 302/307/148/149 and 120-B IPC and 25/27/59 of the Arms Act, Police Station Narnaud, District Hisar.

Learned DAG has stated that the State would have no objection in getting the matter reinvestigated by Special Investigation Team headed by an Officer not below the rank of Deputy Inspector General of Police and has further invited learned counsel for the petitioner to give a panel of three or four such serving Officer so that one of them could be deputed for this task.

Learned counsel for the petitioner has accepted this proposal and handed over a list containing the names of Navdeep Singh Virk, IPS, Sirikant Jadhav, IPS, Anil Rao, IPS and P.S. Ranga, IPS as his nominations for the Officer to head the Special Investigation Team.

Let the Special Investigation Team be constituted under anyone of these four Officers as has been agreed by learned DAG within a period of two weeks and let the final report be submitted on or before 28.02.2012 before the trial Court.

It goes without saying that the trial Court would have the discretion to extend the time in case a case is made

out therefore.

Till then the trial shall remain stayed.

Petition is disposed off in the above terms.”

Thereafter, the case was investigated by Special Investigation Team as per the directions issued by this Court on 02.11.2011 and its report was put up before the Additional Sessions Judge-cum-Fast Track Court, Hisar. After perusing the said report, the Additional Sessions Judge, Hisar passed an order dated 13.08.2012 observing therein that the investigation of the case has not been conducted as per directions issued by this Court. The Special Investigating Team was directed to comply with the order dated 02.11.2011 passed in ***Criminal Misc. No.M-21784 of 2011.***

State of Haryana has filed a Revision Petition No.3453 of 2012 to challenge the order dated 13.08.2012 passed by the Additional Sessions Judge, Hisar by raising various grounds, first and foremost being the provisions of Cr.P.C have been ignored. It is submitted that in case, the final report has already been filed under Section 173(8) Cr.P.C., then only power available to the investigating agency is to investigate the case further as per the provisions of Section 173(8) Cr.P.C and the same can be done by the police or in case, the directions are there by the Court, if the Court is not satisfied with the investigation conducted by the police but the police has no right to reinvestigate the matter.

Petitioner-Mohan @ Mohni has also approached this Court for seeking further investigation of the case through some independent agency preferably Central Bureau of Investigation. Both the cases were ordered to be heard together. State has also sought modification of order dated 02.11.2011 passed by this Court and prayed that instead of re-investigation, the State may be allowed to investigate the matter further

and the following order was passed, wherein, the order dated 02.11.2011 was ordered to be recalled :-

“ I find this stand to be fair and consequently re-call the order dated 02.11.2011, Criminal Misc. No.M-21784 of 2011 be revived and listed on 03.12.2013 as per roster after obtaining orders from the Hon’ble Chief Justice.”

Learned counsel for the petitioner-Mohan @ Mohni submits that as per allegations in the FIR, the accused persons wanted to take illegal possession of the disputed land during night, whereas, as per Civil Court record, the disputed house was constructed by Paras Ram-accused, about 40 years back and this fact was not recorded by the Investigating Officer, whereas, it should have been considered. Learned counsel also submits that neither the statement of accused nor of any villager was recorded. He further submits that the police was also present at the place of occurrence, as is clear from DDR No.27 dated 27.02.2010 and DDR No.3 dated 28.02.2010. The presence of the police is also supported by the fact that after the occurrence, four injured persons of the accused party were taken into custody and were shifted to Government Hospital, Hansi and thereafter, they were brought to police station after formal treatment.

Mr. Kush, learned counsel for the petitioner in ***Criminal Misc. No.M-21784 of 2011*** also submits that in spite of the fact that the police was present during the night of occurrence, still the FIR was not registered at night hours or in the early morning of the next day. It is also the submission of learned counsel for the petitioner that an application was moved alleging therein that the police was present at the spot and various applications were also made to higher authorities for demanding arrest of the accused persons. Even DSP Abhey Singh had visited the police post to hear the grievances of the aggrieved party and the police post was surrounded/gherao by supporters. The doctors had advised for conducting

X-rays of some of the injured but in spite of that the injured persons were kept in illegal custody for about ten days and they were not examined radiologically. The factum of said MLRs of the accused/injured was not considered by the Special Investigating Team. Learned counsel also submits that one police official, namely, Abhey Singh of the rank of ASI, who was present at the place of occurrence had also sustained injuries and died within a period of ten days but this fact has also been concealed from the Court. Two blind persons have been arrayed as accused, whereas, they were not residing in the disputed house. Accused Bholu is 100% blind, which is clear from the report of Board of doctors of the PGI, Rohtak and Kalam-accused is also 100% blind as per report of Board of doctors of Government Hospital, Hisar as well as report of doctors of AIIMS, Delhi.

At the end, learned counsel for the petitioner submits that the investigation has been conducted by a tainted officer, who was accused in murder case of Mirchpur Kand and was also held responsible for the occurrence.

To sum up the arguments, learned counsel for the petitioner submits that the re-investigation can be done in case of exceptional circumstances and even fresh investigation is also permissible when the earlier investigation is biased and tainted.

Learned counsel for the petitioner has also relied upon the judgments of Hon'ble the Apex Court in cases ***Dinubhai Boghabhai Solanki vs State of Gujarat and others 2014(2) RCR (Criminal) 19, State of Gujarat and others vs Ganeshbhai Jakshibhai Bharwad and others 2010(4) RCR (Criminal) 311, Vinay Tyagi vs Irshad Ali @ Deepak and others 2013(2) RCR (Criminal) 197, K.V. Rajendran vs Superintendent of Police, CBCID South Zone, Chennai and others 2013(4) RCR (Criminal) 745, Sudipta Lenka vs State of Odisha and***

others 2014(2) RCR (Criminal) 346, Narmada Bai vs State of Gujarat and others 2011(5) SCC 79 and judgment of Delhi High Court in case **Braham Prakash vs State 1997(3) RCR (Criminal) 519** in support of his contentions.

Learned State counsel submits that the order dated 02.11.2011 was modified by this Court and it was clarified that instead of re-investigation, the State may be allowed to further investigate the matter. It is also the argument of learned State counsel that as per the said order, the investigation of the case was done by Special Investigating Team and report in this regard was filed before the trial Court and the liberty was also granted to the petitioner to raise all his pleas before this Court. Learned State counsel further submits that the re-investigation of the case is not permitted under law and order passed by Additional Sessions Judge, Hisar is liable to be set aside.

Learned State counsel has also relied upon the judgment of Hon'ble the Apex Court in case **Hardeep Singh vs State of Punjab and others 2014(1) RCR (Criminal) 623** as well as judgment of this Court in case **Vikram Singh vs State of Punjab** passed in **Criminal Misc. No.M-24833 of 2013**, decided on **03.12.2013** in support of his contentions.

Learned counsel for the complainant submits that the investigation has already been conducted by the Special Investigating Team and the same has not been disputed by learned counsel for the accused-petitioner. He further submits that now the matter is before the trial Court and whether the investigation report filed by the investigating agency is to be accepted or not, is to be seen by the trial Court itself.

Learned counsel for the complainant has also relied upon the judgments of Hon'ble the Apex Court in cases **Vinay Tyagi vs Irshad Ali alias Deepak and others 2013(5) SCC 762, Sudipta Lenka vs State of**

Odisha and others 2014(2) RCR (Criminal) 346 as well as judgment of this Court in case ***Bakhashi Ram and others vs Satwant Singh Manak and others 2014(1) PLR 347***, in support of his contentions.

Heard the arguments of learned counsel for the parties.

Admittedly, there is a dispute of land between the parties. As per the case of the petitioner, there is a *shamlat* land in front of the school and Paras Ram and Om Parkash wanted to take illegal possession of the said land. A *Panchayat* was also convened in this regard and they were asked not to interfere with the possession but still, some of the persons reached at the place of occurrence armed with deadly weapons for taking possession of the same resulting into fight between the two groups, wherein, Sanjay, Manoj @ Vinod, Azad, Sunder, Kuldeep, Balraj, Mahipal, Parvesh, Pirthi and present petitioner were injured. Subsequently, on hearing the gun shots, other villagers also gathered at the place of occurrence and on seeing them, the accused persons ran away from the spot. One Rajesh died at the spot due to the injuries sustained by him and some of the persons were shifted to P.G.I.M.S. Rohtak. Some of the police officials had also received injuries and one Manoj @ Vinod died during treatment. FIR was registered on the basis of statement made by Ramkesh. It is also the contention of learned counsel for the petitioner that there was a political interference due to which the dispute arose between two communities. The petitioner's side has been shown to be implicated by showing as if the possession of the plot, in dispute, was to be taken by Paras Ram, whereas, as per his stand, he was in possession of the land, in dispute, for the last about 40 years and had already constructed some portion of it. The names of the persons mentioned in the FIR belong to a particular community. Even two blind persons have also been arrayed as accused. The litigation is still pending with regard to that land and the

revision petition filed by Paras Ram was remanded to Assistant Collector (1st Grade), Tohana for deciding the question of title and other issues.

Learned counsel for the petitioner further submits that some of the police personnels had also participated in the said occurrence and they were even injured but the same has not been investigated into.

As per the stand of the respondent-State, the investigation of the case was conducted by Sub Inspector Mala Ram and then by Inspector Vinod Kumar and the same was thereafter verified by Deputy Superintendent of Police, Hansi. Investigation of the case was also conducted through the State Crime Branch, Hisar. Challan was filed under Section 173 Cr.P.C against ten accused persons including the petitioner on 01.06.2010. Accused, namely, Kalam Singh, Devi Ram, Surender @ Chhanga and Sunil @ Hau @ Naveen were found innocent and their names were reflected in Column no.2. Subsequently, all these persons have been summoned by the trial Court on an application moved under Section 319 Cr.P.C. Learned State counsel submits that two persons, who were stated to be blind, were found innocent during investigation.

The prayer in the present petition is for further investigation of the case as the investigation conducted by the Investigating Agency is not fair and some of the persons have falsely been implicated as the police has held only one group.

The case, in hand, came up for hearing on various dates after issuing notice of motion on 02.08.2011. On 02.11.2011, the following order was passed :-

“ This is a petition for seeking further investigation of the case bearing FIR No.106 dated 28.02.2010, under Sections 302/307/148/149 and 120-B IPC and 25/27/29 of the Arms Act, Police Station Narnaund, District Hisar.

Learned DAG has stated that the State would have no objection in getting the matter reinvestigated by Special Investigation Team headed by an Officer not below the rank of Deputy Inspector General of Police and has further invited learned counsel for the petitioner to give a panel of three or four such serving Officers so that one of them could be deputed for this task.

Learned counsel for the petitioner has accepted this proposal and handed over a list containing the names of Navdeep Singh Virk, IPS, Sirikant Jadhav, IPS, Anil Rao, IPS and P.S. Ranga, IPS as his nominations for the Officer to head the Special Investigation Team.

Let the Special Investigation Team be constituted under anyone of these four Officers as has been agreed by learned DAG within a period of two weeks and let the final report be submitted on or before 28.02.2012 before the trial Court.

It goes without saying that the trial Court would have the discretion to extend the time in case a case is made out therefor.

Till then the trial shall remain stayed.

Petition is disposed off in the above terms.”

As per order passed on 02.11.2011, learned State counsel was having no objection in getting the matter reinvestigated by Special Investigation Team headed by an Officer not below the rank of Deputy Inspector General of Police. It was accepted by learned counsel for the petitioner and names of four Officers were mentioned in the said order. A direction was issued to constitute a Special Investigating Team under anyone of these four officers. However, with the said direction, the petition was disposed of on 02.11.2011 itself. The Special Investigation Team investigated the matter and report, in respect thereof, was submitted before

the trial Court. However, the trial Court did not accept the report on the ground that as per directions issued by this Court on 02.11.2011, the Special Investigation Team has not reinvestigated the case and accordingly, the Special Investigation Team was directed to comply with the directions of this Court and to submit the report before the trial Court vide Order dated 13.08.2012, which is subject matter of challenge in the revision petition.

In the revision petition, the State sought modification of order dated 02.11.2011 with a prayer that instead of re-investigation, the State may be allowed to further investigate the matter. However, vide Order dated 22.11.2013, the order dated 02.11.2011 was modified and ***Criminal Misc. No.M-21784 of 2011*** was ordered to be listed for hearing. It is also relevant to mention here that the proceedings before the trial Court were stayed vide Order dated 08.05.2013.

Undisputedly, the dispute is there between the two groups and that too because of one plot. One party is claiming possession for the last about 40 years and the complainant party is claiming that the accused party is in un-authorized possession of land, in dispute. The litigation is also pending before the Assistant Collector (1st Grade), Tohana and the dispute of title is also there.

After considering the arguments of learned counsel for the parties, the issue which requires consideration is that whether the case is made out for further investigation or not as the matter has already been investigated by the Special Investigation Team.

Before proceeding further to resolve the issue whether the petitioner is required for investigation or not, it would be significant to examine as to what is the meaning of investigation and for what purpose the custody is required.

The term “Investigation” has been defined under Section 2(h) of Criminal Procedure Code. It includes all the proceedings under the Code for the purpose of collection of evidence conducted by a police officer or any person (other than a Magistrate) who is authorised by a Magistrate in this behalf.

The inquiry or investigation commences on receiving the information. However, certain other powers are provided under Section 154 CrPC in regard to power to investigate cognizable cases and section 155 CrPC deals with non cognizable cases. Further more, sections 156 to 162 deal with different yardsticks to be followed while conducting investigation. Section 157 CrPC unambiguously provides the procedure for investigation which is reproduced as follows :

“157. Procedure for investigation

(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided that—

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make

an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements to that sub-section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be Investigated."

The term 'investigation' has been defined elaborately by the Apex Court as well as various High Courts. In H. N. Rishbud v. State of Delhi, AIR 1955 SC 196, it has been held that "under the Code" investigation consists generally of the following steps:

- (1) Proceeding to the spot,
- (2) Ascertainment of the facts and circumstances of the case,
- (3) Discovery and arrest of the suspected offender,
- (4) Collection of evidence relating to the commission of the offence which may consist of:
 - (a) the commission of various persons (including the accused) and the reduction of their statement into writing, if the officer thinks fit, (b) the search of places or seizure of things considered necessary for the investigation and to be produced at the trial, and
- (5) formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial and if so taking the necessary steps for the same by the filing of a charge-sheet under Section 173 Cr.PC.

The steps involved in the course of investigation and views taken in the aforesaid judgment have been followed in State of M.P. v. Mubarak Ali, AIR 1959 SC 707.

There are various yardsticks for carrying out the investigation out of which one is by way of questionnaires. As per judgment in **H.N.Rishbud's** case (supra), the fourth and fifth steps suggest that the investigating agency is to collect oral and documentary evidence relating to the offence which may consist of various persons, including the alleged accused. After collecting the evidence, the Investigating Agency is to form an opinion as to whether there is sufficient evidence to place the alleged accused and other persons for trial before the Magistrate. The purpose of conducting the investigation is to collect oral and documentary evidence in order to cause no injustice to the victim or the alleged accused. Of course, the trial Court before framing of charge is to consider the fairness and impartiality. In case the Court finds that the Investigating Agency has not taken into consideration the evidence in a proper manner, the trial Court may direct further investigation or decide the application moved by the alleged victim/accused for showing that the evidence in the shape of oral and documentary evidence, maybe in the form of questionnaire and reply thereto. If the trial Court finds that there is sufficient material not to proceed against the alleged victim/accused, it should discharge the alleged accused. In case there is concrete evidence, then it should proceed to the next stage of trial. The trial Court has power to make accuse the other person(s) left by the Investigating Agency for doing unlawful act by himself or at the behest of accused.

As per sub Section (1) of Section 173 Cr.P.C., every investigation is to be completed without unnecessary delay. Sub section (2) mandates that as soon as the investigation is completed, the Officer

Incharge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, which contains the names of the parties, the nature of the information, the names of the persons who appear to be acquainted with the circumstances of the case, the details of the offences which have been committed, arrest of accused and details about his release with or without sureties.

Sub Section (8) of Section 173 Cr.P.C. talks about further investigation which shows that in case the report under sub Section (2) is forwarded to the Magistrate, if the Officer Incharge of the police station obtains further evidence, it is incumbent on his part to forward the same to the Magistrate with a further report with regard to such evidence in the prescribed form. Sub section (8) of Section 173 of the Code provides the further investigation but reinvestigation is prohibited. The law does not mandate taking of prior permission from the Magistrate for further investigation. Even after filing of charge sheet, a statutory right of police is there to further investigate. In case of reinvestigation, the prior permission is required and as such, the reinvestigation without prior permission is prohibited but further investigation is permissible. The issue of fair investigation was discussed by Hon'ble the Apex Court in the case of **Manu Sharma Vs. State (NCT of Delhi)** (2010) 6 SCC 1, wherein, it has been observed as under:-

“The criminal justice administration system in India places human rights and dignity for human life at a much higher pedestal. In our jurisprudence an accused is presumed to be innocent till proved guilty, the alleged accused is entitled to fairness and true investigation and fair trial and the prosecution is expected to play balanced role in the trial of a crime. The investigation should be judicious, fair, transparent and

expeditious to ensure compliance with the basic rule of law.

These are the fundamental canons of our criminal jurisprudence and they are quite in conformity with the constitutional mandate contained in Articles 20 and 21 of the Constitution of India....

Similarly, Hon'ble the Apex Court in the case of **Nirmal Singh Kahlon Vs. State of Punjab and others** 2009 (1) RCR (Criminal) 3 has held that the spirit of fair investigation and fair trial are concomitant to supervise the fundamental right of the accused under Article 21 of the Constitution of India. It is to be seen while ordering for further investigation as to whether the investigation has been conducted fairly and in an impartial manner. In case, the investigating agency is not fair and impartial then investigating agency cannot be permitted to continue as has been held in the case of **Babubhai V. State of Gujarat and others** 2010 (4) RCR (Criminal) 311. Hon'ble the Apex Court in the case of **Ram Lal Narang Vs. State (Delhi Administration)** AIR 1979 SC 1791 has held that further investigation is not altogether ruled out merely because the cognizance of the case has been taken by the Court. Defective investigation coming to the light during the course of trial may be cured by further investigation in case the circumstances permit. It has further been held in said judgment that it is duty of the investigating agency to investigate and submit a report to the Magistrate and it is also open to the police to carry out further investigation.

Moreover, the further investigation is also necessary for principles of natural justice, which requires that accused be given an opportunity of hearing inasmuch as there was a judicial determination in their favour. Privy Council in the case of **King Emperor**

vs Khwaja Nazir Ahmad, Vol. LXXI Indian Appeals, 203 has held as under:-

“Just as it is essential that every one accused of a crime should have free access to a Court of justice, so that he may be duly acquitted if found not guilty of the offence with which is charged, so it is of the utmost importance that the judiciary should not interfere with the police in matters which are within their province and into which the law imposes on them the duty of inquiry. In India, as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities, and it would, as their Lordships think be an unfortunate result if it should be held possible to interfere with those statutory rules by an exercise of the inherent jurisdiction of the Court. The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course, subject to the right of the Courts to intervene in an appropriate case when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of Habeas Corpus.”

A Full Bench of the Delhi High Court in the case of **Rajneesh Kumar Singhal Vs. State (National Capital Territory of Delhi)**, 2001 (2) RCR (Criminal) 123 (FB) has held that all procedural laws are meant to do stifle the same. In a given situation where a Magistrate finds that the matter requires further investigation.

Same view has been taken by Hon'ble the Apex Court in the

case of **Vinay Tyagi Vs. Irshad Ali @ Deepak and others** 2013 (2) RCR (Criminal) 197.

Certain guidelines to ensure fair investigation were issued by this Court in case **Criminal Misc. No.M-27833 of 2013** titled as **Vikram Singh vs State of Punjab**, decided on **03.12.2013**, which are as under :-

- (i) The investigating Agency should take all the material in the shape of oral and documentary evidence, may be questionnaire and reply thereto or otherwise, so as to ensure that justice be done to the victim or alleged accused.
- (ii) In case, still the victim or alleged accused is aggrieved by the investigation, he/she may approach the trial Court before the framing of charge which should issue direction for further investigation.
- (iii) If the Investigating Agency has left any person for any unlawful act done by him or at the behest of accused, he should be made as an accused on the application of victim or alleged accused, before framing of charge.

By applying the ratio of judgments as discussed above and also considering the peculiar facts and circumstances of the case, further investigation is required to be done as both the parties have received injuries because of land, in dispute regarding which the civil litigation is also pending. It has also been brought to the notice of the Court that some of the police officials were also present who have received injuries during the said occurrence. Otherwise also, the State has no objection in further investigation of the matter.

In view of the facts as mentioned above, let the Special Investigation Team of three members be constituted, which shall be headed by the Officers not below the rank of Superintendent of Police. The

Special Investigation Team shall submit its final report before the trial Court within a period of three months from the date of receipt of certified copy of this Order. However, the trial Court would have discretion to extend the time, in case, some special reasons are there for not concluding the inquiry within the prescribed period. During this period, the proceedings before the trial Court shall remain stayed.

The State is directed to take necessary action in this regard.

The petition is, accordingly, disposed of in the above said terms.

28.04.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE