

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

Date of Decision : 19.01.2015

1) CRM-M No.20465 of 2013

Raj Kumar @ Raju

..... Petitioner

Versus

State of Punjab and others

..... Respondents

2) CRM-M No.29180 of 2013

Raj Kumar @ Raju

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Arihant Jain, Advocate
for the petitioner.

Mr. A.P.S. Gill, A.A.G., Punjab.

Mr. Deepak Aggarwal, Advocate
for respondents No.4 and 5 (in CRM-M-20465-2013).

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

These are two petitions. The petition bearing CRM-M-20465-

for the proper investigation of the case in FIR No.63 dated 10.04.2013 registered under Sections 341, 307, 120-B IPC and Sections 25/27 of the Arms Act at P.S. City Sunam, District Sangrur. As per the said FIR, when the petitioner was returning from his factory a gun shot was fired upon him by some persons and an amount of Rs.17 lakhs was taken away by those persons from his scooter. The further allegation is that the police under the influence of the accused persons pressured him to compromise the matter. During the investigation the police came to the conclusion that the whole incident had in fact been engineered by the petitioner. The police then proceeded to lodge a kalandra i.e. Rapat No.12 dated 29.06.2013 in FIR No.63 dated 10.04.2013 under Sections 420, 336, 182, 188, 120-B IPC and Sections 25, 27, 29, 30, 54 & 59 of the Arms Act and the petitioner was arrayed as an accused. The petition bearing CRM-M-29180-2013 has been filed for quashing of the said FIR No.63 dated 10.04.2013 as mentioned in the Rapat No.12 dated 29.06.2013. Both the petitions are decided by the common order.

Learned counsel for the respondents No.4 and 5 and the learned Assistant Advocate General have argued that the allegations against the petitioner are serious and consequently the said FIR cannot be quashed.

Learned counsel for the petitioner has however argued that even if the police had found that the petitioner had engineered the whole incident the only lawful recourse would be to have lodged a fresh FIR against the petitioner and, if the original accused in the FIR lodged by the petitioner was found to be innocent then a closure report should have been

filed before the competent court. That court would have given an opportunity to the petitioner to object and the petitioner may have led evidence to vindicate his stand and to negate the case set up by the police.

Learned Assistant Advocate General as well as the learned counsel for respondents No.4 and 5 are not in a position to deny the validity of this argument.

It cannot be gainsaid that the investigation of the police regarding the truth or falsity of a case is not determinative. If the police found that a false case has been registered the law envisages that it would file a closure report which has to be accepted by the court after giving notice to the complainant. In the present case, in fact the original FIR lodged by the petitioner has been subsumed by the allegations made against the petitioner after about 2½ months. Of course the prayer of the petitioner that the allegation against him be quashed also cannot be accepted because at this stage there is not enough material before this Court to come to any conclusion either way. There is a chance that the petitioner is correct as also a chance that the case made out against him is valid.

Learned counsel for the petitioner has also argued that even on merits the charges sought to be framed against the petitioner do not stick.

In my opinion, the petitioner has the remedy of filing an appeal against the framing of charge before the Sessions Court and he may take all these pleas there.

Resultantly, the petition bearing CRM-M-20465-2013 is allowed and the police is directed to take further action on the original FIR

lodged by the petitioner as per law.

The petition bearing CRM-M-29180-2013 is disposed of in the above terms.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

January 19, 2015

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**(AJAY TEWARI)
JUDGE**