

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

CWP No.15045 of 2012

Date of decision: 17.12.2015

Virender Singh

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ved Parkash, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

DEEPAK SIBAL, J. (Oral)

Through the present petition, challenge is made to the punishment order dated 01.07.2008 (Annexure P-4), order passed by the Appellate Authority dated 08.12.2008 (Annexure P-6) vide which the appeal by the petitioner against the punishment order has been dismissed and order dated 08.04.2010 (Annexure P-8) through which the petitioner's revision petition filed against the appellate order was dismissed.

The facts, in brief, which need to be stated for adjudicating upon the issues raised in the present petition are that the petitioner, who was serving the Haryana Police as a Sub Inspector was issued a chargesheet for being negligent in the conduct of investigation in FIR No.388 dated 18.09.2003, registered under Sections 323, 342, 307, 498 A and 120-B IPC in Police Station

City Jind, District Jind. His reply to the chargesheet having been found to be unsatisfactory, he was subjected to a regular departmental enquiry in which he was found guilty.

The charges proved against the petitioner were that in a matrimonial dispute, which took place in Gujarat wherein both the parties to the marriage resided, he not only took cognizance of the aforesaid FIR which was registered in Jind, Haryana but went all the way to Gujarat to arrest the groom and his family members. The departmental enquiry further found that the complainant was not a resident of Jind but without properly verifying the residential status of the complainant, the petitioner embarked upon the investigation of the case and went on to arrest the accused in Gujarat and brought them to Jind. It may be noticed that during the course of enquiry, the petitioner did not produce any defence witness or any other evidence in defence except to file a written defence.

On the basis of the enquiry report, which was served upon the petitioner along with a show cause notice through which he submitted his written reply, after consideration whereof, the order of punishment was passed imposing a punishment of stoppage of five increments with permanent effect by holding as under:-

"From the facts and circumstances of the case, it can not be said that any part of cause of action in the case had arisen within the jurisdiction of Jind. Moreover, Manish Jain (respondent No.3) had already died. Petitioners are residents of Baroda (Gujrat). Continuing the proceeding at Jind is just abuse of the process of the court. Police had rightly come to the conclusion that accused-petitioners deserved to be discharged."

Under the circumstances, this petition is accepted. Impugned order dated 5.2.2005 of Sessions Judge,. Jind is set aside and accused petitioners shall stand discharged in case FIR No.388 dated 18.09.2003 u/s 323/342/307/498A/120-B IPC PS City Jind. In compliance of the above directions of the Hon'ble Punjab and Haryana High Court the accused petitioners were discharged in the case vide order dated 02.12.2006 of C.J.M. Jind. Thus SI Virender Singh No.H/16 has exhibited gravest act of misconduct after misusing his official status, which also lowered the image of police department in the eyes of general public. Taking into consideration all facts of the case in minute detail. I am of the opinion that in the instant case, he should be awarded deterrent punishment. Accordingly, he is awarded a punishment of stoppage of five increments with permanent effect. Order be booked accordingly and a copy of the same be delivered to SI Virender Singh No.H/16, free of cost, under proper receipt."

Against the aforesaid punishment order, the petitioner's appeal was considered but was dismissed and so was the revision petition.

I have heard learned counsel for the parties and perused the record carefully.

Neither any procedural fault in the enquiry proceedings has been pointed out nor any violation of the applicable rules has been averred. It has also been admitted that at all stages of the enquiry proceedings, the petitioner was afforded an appropriate opportunity.

It was proved in the departmental enquiry that the petitioner being the investigating officer did not even bother to verify the residential address of the complainant enquiry that she had never been resident of the address given by her in the

complaint. It was found that the petitioner in a hasty manner went all the way to Gujarat, arrested three accused persons mentioned in the FIR and brought them to Jind. The punishment order relied upon in the order passed by this Court in Criminal Miscellaneous No.22590-M of 2005 titled as Rajinder Singh Jain and others vs. State of Haryana decided on 23.11.2006 wherein the FIR was quashed on the ground of jurisdiction by holding as under:-

"The dispute in this case had started with the talk of marriage and then marriage of Shanu with Manish Jain petitioner No.3, which took place in December 2001.

From the facts and circumstances of the case, it cannot be said that any part of the cause of action in this case had arisen within the jurisdiction of Jind. Moreover Manish Jain (respondent No.3) had already died. Petitioners are residents of Baroda (Gujrat). Continuing the proceeding at Jind is just an abuse of the process of the Court. Police had rightly come to the conclusion that accused-petitioners deserved to be discharged."

Under these circumstances, this petition is accepted. Impugned order dated 5.2.2005 of Sessions Judge Jind is set aside and accused-petitioners shall stand discharged in case FIR No.388 dated 18.9.2003 under Sections 323/342/406/307/498-A/506/120-B IPC, registered at P.S. City Jind.

From the above, it is clear that no part of the cause of action in the FIR investigated by the petitioner accrued in the State of Haryana. The petitioner without verifying the false address given by the complainant went all the way to Gujarat to arrest the accused persons therein and brought them to Jind. A perusal of the FIR ex-facie showed that both the parties to the matrimonial dispute were residents of Gujarat and that the complaint of alleged events took place in Gujarat and at the end of the complaint in a way laid manner stating that the complainant has now come to live

with her maternal uncle at Jind, the jurisdiction of the criminal case was sought to be conferred in Jind. The petitioner who was a Sub Inspector should have, after reading the complaint, first verified whether any part of cause of action accrued in Jind, Haryana, but without doing so, he embarked upon the investigation of the case which ultimately was quashed by this Court on the ground of jurisdiction. An investigation in a criminal case is a serious matter and should be taken with high degree of responsibility which a senior officer like the petitioner failed to do. This is least expected from officers who were incharge of Investigation which ultimately can result in violation of fundamental rights of persons who are involved in the criminal cases. The rash acts of the petitioner cannot be condoned and for such acts of omission and commission on his part, in my opinion, he has rightly been punished by ordering withholding of five increments with cumulative effect.

Dismissed.

(Deepak Sibal)
Judge

17.12.2015
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