

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

CWP No.6656 of 2015 (O&M)
Date of Decision:15.10.2015

Umesh Pandit

. . . .Petitioner

Versus

State of Haryana and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.APS Deol, Sr. Advocate, with
Mr.Sushil Jain, Advocate,
for the petitioner.

Mr.Deepak Machanda, Addl. A.G. Haryana.

RAKESH KUMAR JAIN, J.

The petitioner is a resident of Faridabad. He claims to be an agriculturist by profession, Secretary of (Kisan Cell) Committee of All India Congress (I) and alleged to have contested election for the member of Legislative Assembly from Chhata Constituency, Mathura, unsuccessfully. He has filed this petition, seeking a direction to the respondents to restore the security granted to him by the State Government on 9.4.2012 in view of a threat perception from Student Islami Movement of India [SIMI]. The petitioner has referred to some complaints/FIRs registered by him namely, (i) FIR No.328/2009 under Section 506 of the IPC at Police Station, Sector 55, Faridabad [for short '1st FIR']; (ii) FIR No.85/2011 under Sections 506 & 507 of the IPC at Police Station, Sector 55, Faridabad [for short '1nd FIR']; (iii) FIR No.503/2011 under Sections 506 & 507 of

the IPC at Police Station, Sector 55, Faridabad [for short 'IIIrd FIR']; (iv) FIR No.58/12 under Sections 395 & 398 of the IPC at Police Station, Sadar Palwal [for short 'IVth FIR'], FIR No.23 dated 14.1.2013 under Sections 506 & 507 of the IPC at Police Station, Sector 55, Faridabad [for short 'Vth FIR'] and a complaint of an incident dated 29.1.2015 made to the SHO, Police Station, Sector 55, Faridabad about the threatening call [for short 'VIth complaint']

It is alleged that the petitioner was granted personal security by the Government of Haryana on 9.4.2012 which has been withdrawn on the oral directions of the CID department on 3.12.2014. The petitioner has allegedly made representations to the National Human Rights Commission, other functionaries of the State of Haryana and Union of India. Since the security has not been restored, therefore, the present petition has been filed.

After notice, separate replies have been filed by respondents No.1 & 2 by way of an affidavit of Yash Pal Singal, IPS, Director General of Police, Haryana; respondent No.3 Shattrujeet Kapur, IPS, ADGP/CID, Haryana and Subhash Yadav, IPS, Commissioner of Police, Faridabad. The consistent stand of the respondents is that as per the threat assessment reports dated 21.3.2015, 27.3.2015 and 18.6.2015, no threat to the life of the petitioner has been found. Moreover, the Police Department in Haryana is facing acute shortage of man power and the case of providing security to individuals without genuine cause reduces the available manpower in the department of Police and adversely affects the maintenance of public order and security to general public. It is also averred that the State Government has scaled down the security cover by withdrawing the security of ex-Chief

Ministers, ex-Ministers, ex-Chief Parliamentary Secretaries and ex-MLAs except the protectees categorized vide letter dated 27.10.2014 and as a result of this exercise since October 2014, a total of 871 police personnel have been withdrawn from 301 persons including the petitioner and hence the petitioner is not an exception. As regards to the various FIRs, referred by the petitioner, it is averred in the reply that the investigation in the Ist FIR revealed that the petitioner had promised to provide employment to 2-3 persons on the recommendations of the accused, who had helped him in his assembly elections but subsequently, the petitioner failed to keep his promise. The accused in the said FIR has been acquitted by the trial Judge because the petitioner did not depose against him and turned hostile.

In respect of IInd FIR, it is averred that the petitioner had some altercation with the accused Ram Babu during assembly elections in the year 2007. At some point of time, the petitioner had threatened the said Ram Babu, who retorted back. In the IIIrd FIR, the relative of accused (Mohan Shyam) had approached the petitioner for helping the accused in some criminal cases registered against him in UP and gave ₹1 lac to him for that purpose but when the petitioner failed to provide the promised help, the petitioner was asked to refund the amount and during the course whereof the accused had allegedly threatened the petitioner. The IVth FIR is alleged to have been registered for an occurrence alleged to have taken place on 23.2.2012 in which the petitioner and his associates Digambar Sharma and Ravinder Sharma were attacked by 8-10 persons with sticks in which injuries were alleged to have been caused to Digambar Sharma but the investigation revealed that no

such incident had taken place and the complaint was false. Rather as per the investigation, on the fateful day, when the petitioner did not stop his vehicle at the toll plaza to pay toll, he had an altercation with the employees of the toll plaza.

After thorough investigation, the said FIR has been recommended for closure and the cancellation report in the Court has been filed. The Vth FIR was registered by the petitioner on the ground that his wife has been given threats by some unknown persons but in investigation it was found that the wife of the petitioner had lodged the complaint merely on the basis of suspicion. The case was thus closed and cancelled on 16.6.2013. The VIth complaint was also in respect of threatening call on his mobile phone for which he made a complaint to SHO, Police Station, Sector 55, Faridabad. It was entered into Daily Diary Register for verification and later on it was found that no such call had been received on the mobile of the petitioner on 29.1.2015. It is also averred in the reply that the petitioner has become successful in increasing his security cover from one PSO to 7/8 Police personnel at State expense and there were various complaints from the security personnels about gross misbehaviour of the petitioner with them, as a result thereof, the petitioner was served advisory note by the Assistant Commissioner of Police, Faridabad vide No.9799/Secret dated 14.3.2012 and since then the petitioner and his wife started making false complaints on the apprehension of withdrawal of their security cover. It is also averred by the respondents that in order to ensure the safety and security of the petitioner, a patrolling van has been deputed in the area where he resides despite the fact he does not face any specific threat. The

Commissioner of Police has also averred that in future, if any threat to the life of the petitioner comes to their notice, necessary security would be provided as per norms but at present there is no threat to his life and property and the security is not required to be deployed.

Learned counsel for the petitioner has vehemently argued that it is the duty of the State to protect life and liberty of the citizen. The petitioner has registered many FIRs/Complaints in the concerned Police Station on account of threats/criminal intimidation and by refusing to provide security cover by the State, his fundamental right guaranteed under Article 21 of the Constitution of India has been violated but on the other hand, learned counsel for the respondents has submitted that all the FIRs/complaints referred to above have been thoroughly examined and the police authorities are of the considered opinion that there is no threat to the life and property of the petitioner as the 1st FIR is alleged to have been registered on the alleged threat by SIMI, the accused got acquitted only because of the reason that the petitioner did not co-operate with the trial and had turned hostile. In the other FIRs, it has been found that the altercation took place because of the fact that the petitioner could not keep his promise after taking money from the persons/accused therein to execute their work. The FIR registered under Sections 395 and 398 of the IPC was found to be false as no such incident was found to have been happened and the said FIRs/complaints of extending threat on his mobile phone have also been found to be false.

I have heard learned counsel for the parties and examined the available record. There is no dispute that it is a duty of the State to protect the life and liberty of its citizen which has

been guaranteed under Article 21 of the Constitution of India but at the same time, the security cover cannot be claimed by a citizen/petitioner by raising a false alarm. Five FIRs and one complaint have been duly explained in reply by the respondent and I am totally satisfied with the explanations given.

As a matter of fact, the petitioner, who at one point of time had 7-8 police personnel as security at the State expense and has been found misbehaving with them, throwing his weight around in their presence is now finding loss of his aura which had been there when he was surrounded by 8 police personnel in uniform, armed with weapons and has thus filed this petition. The respondents have categorically averred that a police patrolling and PCR has been deployed around the residential area of the petitioner and the Commissioner of Police, Faridabad has specifically stated that the security shall be provided to the petitioner as per norms in case the threat perception to the life and property of the petitioner is found/assessed.

In view of the aforesaid discussion, I do not find any merit in the present petition and hence the same is hereby dismissed.

15.10.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**