

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 254

Criminal Miscellaneous No.M-23844 of 2015 (O & M)

Date of Decision: *May 12, 2016*

Ramanand Yadav

..... PETITIONER

VERSUS

State of Haryana & others

..... RESPONDENTS

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CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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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?

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PRESENT: - Mr. N.S. Shekhawat, Advocate, for the petitioner.

Mr. Chetan Sharma, Assistant Advocate General,
Haryana.

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Jaspal Singh, J

Crl. Misc. No.39513 of 2015

Application is allowed as prayed for.

Crl. Misc. No.M-23844 of 2015

1. By virtue of this petition preferred under Section 482
Cr.P.C., petitioner – Ramanand Yadav has sought the transfer of
investigation in case FIR No.429 dated May 16, 2015, under Sections
148, 149, 279, 323, 427, 379, 356, 506, 120-B IPC, Police Station,

Sadar, Gurgaon, to some independent agency for comprehensive investigation, in which he sustained injuries at the hands of private respondent.

2. The instant case stands registered on the basis of statement of Ramanand Yadav – complainant which reads as under:-

“Statement of Ramanand Yadav son of late Sh. Sher Singh Yadav, R/o H.No.I-63, South City, Part-I, Gurgaon Mobile No.9818057575 aged 59 years. It is stated that I am resident of aforementioned address and I practice in District Court, Gurgaon. Today i.e. on 16.5.2015 at about 9.15 O’Clock in the morning I and my son Parmanand Yadav were going to Courts at Gurgaon in our Innova vehicle bearing registration No.HR26BH-4567, which was driven by our driver Jamshed Ali. From the turn of Universe Park, when we were coming from Sector 31, at that time one Bolero vehicle all of a sudden came in front of our vehicle from one side wrongly and our vehicle could not touch it and we came on the highway to go to the Court and when we were coming down on Rajiv Chowk from Highway, the same Bolero vehicle hit our vehicle from the back side and after being hit by it, we stopped our vehicle on the left side and in the meantime the persons sitting in the Bolero vehicle also parked their vehicle on the left side and out of them, firstly one person came towards our vehicle and then he called his remaining companions that he is the same person, who is to be taught a lesson and you all bring Dandas. In the meantime 7/8 persons, few of them were carrying Dandas and few were carrying stones, they came towards us and attacked on us. For about 5/7 minutes, they kept beating me, my son and my driver. 1-2 passersby, tried to save us and we also tried to save ourselves and on this two persons threatened to kill me and said that they would teach a lesson for filing a case against Sukhbir Jaunpuria M.P. and threatened that the cases filed against Sukhbir Jaunpuria should be withdrawn otherwise they would be killed. From the behaviour of the assailants, and in the manner this vehicle has chased us, it is clear that attack has been got made on me by Sukhbir Jaunpuria M.P. with a view to frighten and in pursuance of a conspiracy. I and my family apprehend danger from him. In this attack the accused gave a fist blow on my face and due to this I have suffered injury on my lips and tongue and caused injury on my right foot with Dandas and gave injuries on my back with brick/ stone and caused injury on the elbow of my right hand and there was lot of damage in our vehicle also. When we tried to take the photo of the vehicle in the meantime, they snatched and took away my Samsung S4 Mobile, having Airtel No.9810100981 and I noted the number of the vehicle and it was HR26BR-667 Bolero. Legal action may be taken against all the aforesaid accused and I have got my statement recorded and it is correct.”

3. The main allegation of the petitioner is that respondent No.5 was previously MLA from Sohna Assembly Constituency, District Gurgaon and at present, is a Member of Parliament from Tonk Parliamentary Constituency (Rajasthan) of the ruling party i.e. BJP and is also Managing Director of S.S. Group of Companies (erstwhile Sukh

Realtors Private Limited). He is running the business of Builder/ Developer in Gurgaon as well as other places. Being influential politically and otherwise, he is interfering in the fair and impartial investigation of the case registered against him which has necessitated the filing of this petition. Apart from the instant case, many other cases have also been registered at different police stations in Gurgaon, besides criminal complaint(s) pending in different courts, one of which is being prosecuted by the petitioner.

4. An occurrence allegedly took place on May 16, 2015 involving Bolero vehicle bearing No.HR-26BR-6678, regarding which, the above referred FIR was put into black & white and investigation was initiated. After the registration of case, since petitioner was not satisfied with the investigation being conducted or that it was allegedly being conducted while acting under the influence of respondent No.5, he approached this court by way of this petition.

5. During pendency of the petition, even a Special Investigating Team (SIT) was formed under the supervision of Assistant Commissioner of Police, DLF, Gurgaon. The last status report has been furnished by way of affidavit of Ramesh Pal, HPS, Assistant Commissioner of Police, DLF, Gurgaon. A perusal of the said report reveals that all the allegations contained in the FIR were thoroughly and meticulously investigated from different angles but the same could not

be substantiated. Consequently, untraced report has been prepared by the SHO for submission thereof in the concerned court.

6. No doubt, it is pretty settled that if primacy is given to such designed or negligent investigation, to the omissions or lapses by perfunctory investigation or omissions, the faith and confidence of the public would be shaken not only in the law enforcing agency but also in the administration of justice in the hands of courts. At the same time, every citizen has got a right of fair and impartial investigation and it is the duty of Investigating Agency to find out the truth from the falsehood and to bring all real facts to fore and to book those who are responsible for the crime.

7. Adverting to the facts of the case in hand, occurrence is alleged to have taken place in a broad day light on May 16, 2015 in which the petitioner sustained injuries. But since respondent No.5 is alleged to have exercised his influence being a Member of Parliament who is otherwise facing a large number of other criminal cases, this Court is of the considered view that investigation being conducted by SIT is not upto the mark. Even, civil litigation is also pending between the parties. To cull out real facts, this court is of the considered opinion that investigation of this case requires further investigation, that too, from some other agency.

8. Thus, without commenting upon the allegations levelled by the petitioner in the petition, which may not cause any prejudice to

either of the parties, this Court is of the considered view that investigation of this case appears to be perfunctory and it is necessary that the matter be probed/investigated by independent agency with an object to find out the truth and to take action against persons responsible for the crime.

9. In the light of what has been discussed above, instant petition is allowed and investigation of FIR No.429 dated May 16, 2015, under Sections 148, 149, 279, 323, 427, 379, 356, 506, 120-B IPC, Police Station, Sadar, Gurgaon, shall stand transferred to Crime Branch of the State of Haryana, which shall investigate the matter afresh by a senior responsible officer, to be nominated by the Additional Director General of Police (Crime), Haryana, under his direct supervision.

10. Special Investigating Team is directed to hand over the entire record to the Incharge, Crime Branch, Haryana, within a period of 15 days from the date of receipt of a certified copy of this order. Investigation be completed within a period of 9 months thereafter.

11. Disposed of accordingly.

May 12, 2016
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(Jaspal Singh)
Judge