

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-30012 of 2015

Date of Decision: April 23, 2016

Rampal

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

-. -

Present:- Mr.S.K. Garg Narwana, Sr. Advocate with
Mr. V.G. Narwana, Advocate
for the petitioners.

-. -

M.M.S. BEDI, J.

Petitioner is an accused in FIR No. 429 dated November 19, 2014, under Section 302, 343, 120B IPC, registered at Police Station Barwala, District Hisar. Charge-sheet annexure P-2 has already been submitted against the petitioner by the police CBI. Petitioner seeks quashing of FIR and all the criminal proceedings emanating therefrom alleging that the investigation has not been fair and suffers from the vice of malafide of senior police officers. Petitioner also seeks a direction for referring the matter for registration of an FIR and to get the matter investigated by an independent agency like CBI.

Petitioner claims that he is a spiritual guru and is involved in studying texts of several other religions and generally delivers spiritual discourses and is a disciple of Swami Ramdevanand who is a spiritual leader of Kabir Panth. FIR No. 429 dated November 19, 2014 was registered on the statement of complainant Shiv Lal alleging that the petitioner is having a Dera in Uklana Road, Barwala. There was a satsang at the said Dera from November 7, 2014 to November 9, 2014. He alongwith his wife Sarita and younger brother Satpal and his wife Anupa had gone to attend said Satsang. On November 10, 2014, after the Satsang when they started to return to their home, on the asking of petitioner many followers, amongst whom Mahinder, Rajinder, Raj Kapoor etc. carrying sticks and other persons wearing Commando dress stopped the complainant and his family and they were not allowed to come outside on the pretext that the women and children were the shields of petitioner and if they die then they would blame police. The complainant and other followers knew about the warrants of Baba Rampal to appear before the Court on November 18, 2014. Baba Rampal and his disciples had collected huge number of stones, bricks on the roof and showered bricks, stones from the roof of the Ashram on Administration. Followers sitting on the gate of the Ashram also suffered many injuries with the stones. Santosh, Malkiat Kaur, Rajbala and Adarsh were also detained but during night the condition of many children and women had deteriorated. The Administration had made arrangements of Ambulance outside the Ashram but Commandos in black dress had locked the

complainant and others inside the rooms. On November 19, 2014 at about 8/9 O'clock dead body of wife of complainant Sarita was given to him who had died on account of suffocation having been locked inside the room. Santosh, Malkiat Kaur, Dhray @ Adarsh and Rajbala also died in the same manner on account of confinement in a congested place by the followers on the asking of Baba Rampal.

Learned senior counsel for the petitioner Mr.S.K. Garg appearing on behalf of the petitioner has submitted that the FIR is the result of malafide of the police authorities and has been registered to wreck vengeance on account of the fact that a contempt petition had been filed against Mr.Anil Rao, IGP, Haryana for non-compliance of the order dated November 9, 2009 passed by the High Court in CRM M-9700 of 2009 as such the said officer is inimical towards the petitioner. He had been trying his level best to destroy the petitioner by taking undue benefit of his position. The order dated November 9, 2009 had been challenged in two SLPs which were dismissed on February 18, 2013. The entire operation dated November 18, 2014 mentioned in the FIR was carried out under the supervision of Mr.Anil Rao, IGP, Haryana which clearly shows that the case has been falsely registered against the petitioner in a biased manner in order to settle personal scores. Orders passed by the Apex Court in contempt petition have been placed on record as annexures P-11, P-12 and P-13. Learned counsel for the petitioner has also contended that the statement of husband of deceased has been recorded, and copy of the CD has been placed

on record with an objective to show that the followers of petitioner were mercilessly beaten by the police officials on November 18, 2014 and that few persons had died on account of suffocation as the police did not permit the followers to leave the Ashram on the date of occurrence.

I have considered the contentions of learned counsel for the petitioner and with his assistance watched the CD containing video clip. So far as the allegations of malafide against the police are concerned, it appears that the contempt proceedings had been initiated by the petitioner by filing a COCP No. 2136 of 2009 in CRM M-9700 of 2009 vide annexure P-13 alleging that the order of the Court dated November 9, 2009 directing the SHO to handover the possession of the Ashram on November 25, 2009 was not being complied with. The SHO, Sub Divisional Magistrate and the then SP Rohtak were arraigned as respondents.

There is no dispute that the order of the High Court dated November 9, 2009 has been complied with after the attachment order under Section 145 Cr.P.C. was passed. A perusal of the order dated November 9, 2009 indicates that the said order had been passed on the basis of the consent of the counsel for the State to the effect that possession of the Ashram would be handed over to the petitioner. There does not appear to be any controversy regarding the handing over of the possession of Ashram to the Trust managing the Ashram. There does not appear to be any malafide on the part of Anil Rao in his official capacity as SP, Rohtak at the time of passing of order dated November 9, 2009, annexure P-11. Copy of the order

of the High Court dated November 9, 2009 indicates that Mr. Anil Rao was not even a party in the petition for handing over the possession of the Satlok Ashram to the petitioner. It will not be appropriate to comment whether it is the malafide of the petitioner to involve SP, Rohtak as a party in the contempt petition or it is the said officer who has manipulated the launching of prosecution against the petitioner. It is settled principles of law that when malafide is alleged, it has to be substantiated by cogent material. The allegation against the petitioner regarding malafide of Mr. Anil Rao is misconceived and the contention of the learned counsel for the petitioner is thus rejected.

So far as the material produced by the petitioner in the shape of statements of the family members of the deceased that few followers of the petitioner had died due to suffocation, cannot be adjudicated in the present petition as the said plea of defence can be tested by the trial Court. Expression of any opinion regarding defence evidence sought to be produced for appreciation of this Court is likely to prejudice the trial. All the pleas of defence raised by counsel for the petitioner can be raised at the time of the trial.

I have considered the present petition in the light of judgment of Apex Court in **State of Haryana and others Vs. Bhajan Lal**, AIR 1992 SC 604 and I am of the opinion that the learned counsel for the petitioner has not been able to establish that the circumstances of the present case warrant the quashing of FIR in the present case. No ground is made out for referring

the matter to CBI if seen in context to the parameters laid down for said purpose by the Apex Court in **State of West Bengal and others Vs. Committee for Protection of Democratic Rights and others, (2010) 3 SCC 571**, for quashing of FIR as the petition appears to be not maintainable on account of challan having already been presented and the trial being in progress.

In view of the above, the petition is dismissed without prejudice to the rights of the petitioner to raise all the pleas before the trial Court at the time of framing of charges.

April 23, 2016
sanjay

(M.M.S.BEDI)
JUDGE