

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.1054 of 2016

Date of decision: 19.1.2016

Darbara Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Mohd. Yousaf, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 28.8.2014 (Annexure P/6) passed by respondent no.1 whereby the permission for prosecution sanction against respondents no. 2 to 6 under Section 197 Cr.P.C. was declined.

The reasoning given by respondent no.1 to deny sanction is that the petitioner was arrested on account of fact that Jit Lal a co-accused had received ₹ 1 lac from the complainant so that name of her son could be excluded from the theft case. On account of admission given by said Jit Lal that he had given ₹ 30,000/- to the petitioner who was a Head Constable, the petitioner was proceeded against in the FIR No.36 dated 29.4.2011. Eventually the said FIR resulted in acquittal of the petitioner and co-accused Jit Lal on account of the complainant resiling from her earlier statement. Thus, respondent no.1 found that it was not justified to give prosecution sanction against the Police Officers who have been arrayed as respondents no.2 to 6.

It is not disputed that on account of a theft case Darso complainant in order to protect her son Sahib from being arrested submitted a complaint that she had given ₹ 1 lac on the inducement of Jit Lal on account of the raids being conducted by the police. She had brought

to the notice of the higher officials on account of which the FIR under Sections 420/506 IPC read with the provisions of Corruption Act was lodged. In pursuance of the investigation Jit Lal while in custody had given an extra judicial confession that he had demanded ₹ 1 lac and that he had given ₹ 30,000/- to the petitioner. In pursuance of the said confession the private respondents who were members of the investigating team had arrested the petitioner on 30.4.2011. It is another matter that the complainant did not stand by her earlier statement and it has led to the acquittal on 4.7.2011 (Annexure P/2). It is on that account the petitioner filed the application that sanction be granted for prosecuting the private respondents.

The reasoning given by respondent no.1 is based on the recommendations of the Director General of Police and also as noticed that it was on account of an extra judicial confession. Thus, it is apparent that the private respondents being part of investigating team were only discharging their duties in pursuance of the FIR which had been lodged. Therefore, it cannot be held that they had committed any offence for which the petitioner can validly prosecute them. The investigation and arrest was on the basis of information given by a co-accused and thus no fault can be found in the action of the respondents who were discharging their duties. Thus it would not be in the interest of justice that they are forced to defend themselves in a criminal prosecution which the petitioner proposes to launch.

In such circumstances, the impugned order 28.8.2014 (Annexure P/6) is not liable to be interfered with.

Accordingly, the present writ petition is dismissed in limine.

January 19, 2016
Pka

(G.S.SANDHAWALIA)
Judge

TRADEEP KUMAR ARORA
2016.01.20 10:45
I attest to the accuracy and integrity
of this document
Punjab and Haryana High Court,
Chandigarh

