

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-18456 of 2014 (O/M)
Date of decision : 28.9.2017

Baldev Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. A.S. Sidhu, Advocate, for,
Mr. N.S. Dandiwal, Advocate, for the petitioner.

Mr. C.L. Pawar, Senior DAG Punjab.

Mr. A.P.S. Deol, Senior Advocate, with,
Mr. A.S. Brar, Advocate, for respondents No. 5 to 8.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J.

Baldev Kaur (petitioner) has filed this petition under Section 482 of Code of Criminal Procedure, 1973, for transferring the investigation in FIR No. 62 dated 6.5.2014, registered under Sections 457, 307, 148, 149 IPC and under Sections 25 and 27 of the Arms Act, 1959, at Police Station Bagha Purana, District Moga, to Central Bureau of Investigation (CBI), Crime Branch or to any other agency for free and fair investigation. Further prayer is made for protection of life and liberty of the petitioner and her family members at the hands of private respondents.

The petitioner claims that her husband, namely, Roop Singh, is a worker of Congress party. Roop Singh, husband of the petitioner,

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alongwith 3-4 other Congress workers were implicated in FIR No. 59 dated 30.4.2014, registered under Sections 323, 341, 148 and 149 IPC at Police Station Bagha Purana, District Moga, alleging that they had attacked the Akali workers on the day of Lok Sabha Elections on 30.4.2014. The said offences are bailable. Even then, one Dilbagh Singh was arrested and was kept in illegal detention for 2-3 days. Later on, Akali workers attacked the house of the petitioner with deadly weapons and the life of husband of the petitioner was saved at PGI. Regarding the present incident, it is stated that on 6.5.2014, at about 12:30 AM (midnight), private respondents No. 5 to 8, namely, Sukhdev Singh, Jagsir Singh, Swaran Singh and Inderjit Singh entered the house of the petitioner and attacked her husband Roop Singh. Jagsir Singh fired a shot on the leg of husband of the petitioner. Sukhdev Singh fired a shot of his rifle which hit the chest of husband of the petitioner. They were accompanied by two unidentified persons, who were later on identified to be Swaran Singh and Inderjit Singh (private respondents No. 7 and 8). Accordingly, present FIR No. 62, dated 6.5.2014 was registered under Sections 457, 307, 148 and 149 IPC and under Sections 25 and 27 of the Arms Act, 1959, at Police Station Bagha Purana, District Moga. It is further stated that respondent No. 5, namely, Sukhdev Singh is an Ex-Sarpanch of village and belongs to ruling party (Akali Dal). Private respondents No. 6 and 7, namely, Jagsir Singh and Swaran Singh are the nephews of one SGPC member and the local police is helping them, apparently for the reason that at that time, Akali Dal Government was in power in the State of Punjab. The petitioner was threatened that they will be taught a lesson. The petitioner approached the higher authority, but no action has been taken so far. It is further alleged that respondent No. 4,

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namely, Jasvir Singh ASI, Police Station Bagha Purana, District Moga, raided the house of the petitioner and abused the ladies and threatened that he will put all the family members behind the bars. Due to terror created by respondents, the petitioner and her family members cannot enter their house and they are passing their days by hiding here and there. The petitioner claims that she is a 60 years of age and is moving from pillar to post to get the justice. Due to influence of private respondents with ruling Akali Dal, nobody is listening to them. Hence, present petition.

In the written reply by way of affidavit of Balwinder Singh, PPS, DSP, Bagha Purana, District Moga, dated 6.8.2014, it was stated that the investigation of this case was being carried out by Jatinder Singh, Inspector/SHO Police Station Bagha Purana. However, the Deputy Inspector General of Police (DIG), Ferozepur Range, Ferozepur, constituted a Special Investigating Team (SIT) under the supervision of S.P. (D), Moga. The other members of the team are DSP Bagha Purana, Incharge CIA Staff, Moga and SHO Police Station Bagha Purana. The Special Investigating Team started the investigation on 9.5.2014. It was found during investigation that Sukhdev Singh, Ex-Sarpanch of village, Jagsir Singh, Swaran Singh and Inderjit Singh (respondents No. 5 to 8 respectively) have been falsely implicated, whereas Roop Singh, husband of the petitioner, Joginder Singh son of Roop Singh, Dilbagh Singh son of Mohinder Singh, Harpreet Singh son of Bhajan Singh and Parwinder Singh son of Ajmer Singh are the real culprits in this case. Accordingly, their houses were raided, but they could not be apprehended. It was further found during investigation that due to personal enmity, Dilbagh Singh, Joginder Singh, Parwinder Singh and Harpreet Singh conspired with each

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other and they managed to falsely involve Sukhdev Singh etc. by causing fire arms injuries to Roop Singh and concocted a false story and lodged a false FIR in order to settle the scores, regarding FIR No. 59, dated 30.4.2014, under Sections 341, 323, 325, 148 and 149 IPC, registered against them at Police Station Bagha Purana, District Moga.

Respondents No. 5 to 8, in the reply dated 15.9.2014, also affirmed that DIG Ferozepur Range, Ferozepur, had constituted a SIT on 9.5.2014, which is much prior to the filing of present petition. It was stated that present story was concocted to pressurize private respondents in said FIR No. 59, dated 30.4.2014, referred above. False firearms, injuries have been fabricated on the left leg and left shoulder of Roop Singh with their own with 7.65 bore pistol. This fact is borne out from 4 empty cases recovered from the spot by SHO/Inspector Jatinder Singh soon after the occurrence on 6.5.2014. The weapon used in the occurrence i.e. 7.65 bore pistol does not belong to any of the accused named in the FIR. .315 bore rifle bearing No. 94-AG-2604, registered in the name of Sukhdev Singh (respondent No. 5) is lying deposited with the Sidhu Gun House since 19.3.2014, as per entry No. 1410. It was further asserted that from the call details of mobile phones of Roop Singh, Joginder Singh, Dilbagh Singh and Parwinder (Parminder) Singh alias Phinda, it has come to light that these persons were in touch with each other on mobile phones. Joginder Singh had cancelled his mobile connection and took a new connection and started using SIM card of Jagga Singh, resident of Sangatpura and made calls from it. Similarly, Dilbagh Singh, who had mobile No. 96468-72000, on the midnight of 5.5.2014 had 5-22.34 minutes talk with Jagdeep Singh alias Garry for arranging weapon to suffer injury to Roop Singh. This fact was

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revealed by Jagdeep Singh alias Garry before the SIT. Therefore, the injuries were self inflicted and private respondents are being falsely implicated.

In a short affidavit dated 14.1.2015, filed by Balwinder Singh, PPS, Deputy Superintendent of Police, Bagha Purana, District Moga, this Court was informed that report of SIT has been approved by the DIG, Ferozepur Range, Ferozepur.

Yet another short reply by way of affidavit dated 15.9.2015, filed by Jaspal Singh, PPS, Deputy Superintendent of Police, Bagha Purana, District Moga, the copies of statements of injured, eye witnesses, Ramandeep Kaur wife of Joginder Singh alias Gora and Kamlesh Kaur wife of Tarsem Singh (daughters in law of petitioner), recorded on 6.5.2014 under Section 161 Cr.P.C., were placed on file.

I have heard the learned counsel for the petitioner, the learned State counsel, the learned senior counsel for private respondents No. 5 to 8 and have also carefully gone through the file.

Admittedly, in this case, FIR No. 62 was registered on 6.5.2014 on and on 9.5.2014, the DIG, Ferozepur Range, Ferozepur, formed a SIT, headed by Superintendent of Police (D), Moga and the SIT carried out the investigation. The version of the complainant in the FIR is that when she alongwith her husband Roop Singh, daughters in law Ramandeep Kaur wife of Joginder Singh and Kamlesh wife of Tarsem Singh was present in their house, accused came in the courtyard. Sukhdev Singh, Ex-Sarpanch of village, was armed with rifle and Jagsir Singh was armed with pistol. Accused Swaran Singh and Inderjit Singh were also standing in the courtyard. It is not alleged that said Swaran Singh and Inderjit Singh were

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carrying any weapon. Then, it is alleged that Jagsir Singh gave a shot of his pistol on the left leg of husband of the petitioner and Sukhdev Singh gave a shot of his rifle on the chest of her husband. However, the statement of Roop Singh, recorded under Section 161 Cr.P.C. on 6.5.2014 (Annexure-R-1/T) shows that according to him, Swaran Singh was armed with revolver, Inderjit Singh was armed with a revolver, Jagsir Singh was armed with pistol and Sukhdev Singh was armed with a rifle. Sukhdev Singh raised lalkara (exhortation). Swaran Singh fired a shot of his revolver, which hit on left shoulder of Roop Singh and then Inderjit Singh fired a shot of his gun which hit on his left leg. This is in complete contrast to the statement made by present petitioner at the time of lodging the FIR, wherein rifle shot injury was attributed to Sukhdev Singh and pistol shot injury was attributed to Jagsir Singh, whereas Swaran Singh and Inderjit Singh were not recorded to be carrying any weapon. Similarly, in her statement under Section 161 Cr.P.C., Ramandeep Kaur has stated that Swaran Singh fired a shot of his pistol which hit the left shoulder of Roop Singh and Inderjit Singh fired a shot of his pistol which hit the leg of Roop Singh. Kamlesh Kaur wife of Tarsem Singh also made a similar statement. In this way, on the first day itself, injured and other eye witnesses changed their stand and the persons who fired shot were replaced and so were the weapons.

Now, the medical evidence placed on file in the form of discharge and follow up card, issued by PGI, Chandigarh, which also carry the diagrams of seat of injuries shows that one shot hit the right posterior side i.e. back of the husband of the petitioner and exit from the front side near the shoulder. The entry wound is on the back and exit wound is on the

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front. This is also contrary to the assertion of PWs that the shot was fired from the front and hit the chest. The entry and exit wound shows that probably the person, who fired shot, was at lower level than the level of the entry wound that is why the exit wound is at bit higher place than the chest. The diagram also shows that on the left leg, there is an entry wound from the front and exit wound from left leg, resulting in fracture of the leg. The entry and exit wound is at the same level showing that it was fired from the same level i.e. lower portion of leg. Same weapon i.e. 7.65 bore pistol is stated to have been used in the crime. It is to be further noted that now Congress Government is in power in Punjab State, which is the party of Roop Singh (injured).

Now, the question before this Court is that as to whether the SIT conducted fair investigation or it is a tainted investigation ?

The SIT has come to the conclusion that the injuries were fabricated. Accordingly, the complainant party has now been challned under Sections 182, 185, 211 and 120-B IPC and under Sections 25 and 27 of the Arms Act, 1959. At this stage, it is not appropriate to comment on the evidentiary value of the contrary statements, the manner of commission of crime, the weapons used therein, the shifting of accused regarding attribution of injuries and alleged used of rifle by Sukhdev Singh, Ex-Sarpanch of village, which is found to be not used in the crime. Suffice to say that from the documents placed on file, this Court has come to the conclusion that fair investigation was conducted by the police after taking into consideration material collected from the spot, statements of witnesses and the medical opinion. Therefore, the SIT has come to a particular conclusion, which goes against the petitioner. Therefore, this

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Court at this stage cannot say that the investigation is tainted. Therefore, no case is made out to get another investigation conducted from any other agency.

It being so, petition is found to be without any merit and is hereby dismissed. However, the petitioner shall always be at liberty to avail the remedy available to her under the Code of Criminal Procedure. However, it is directed that comments made above shall not be taken into consideration, while deciding the case between the parties on merits.

(KULDIP SINGH)
JUDGE

28.9.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes