

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

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**CRM-M-36266-2012 (O&M).
Date of Decision: 27.07.2017.**

Gurcharan Singh @ Charan Dass and anotherPetitioners.

Versus

State of Punjab and othersRespondents.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Rajesh Bhateja, Advocate for the petitioners.

Mr. B.S. Baath, Deputy Advocate General, Punjab.

Mr. Krishan M. Vohra, Advocate for
Mr. Sumeet Goel, Retainer Counsel for respondent No.13-CBI.

Ramendra Jain, J.(Oral)

Latest status report by way of affidavit of Swaran Singh, PPS, Superintendent of Police (Investigating), Barnala, filed by learned counsel for the State, is taken on record.

Prayer in the instant petition under Section 482 of the Code of Criminal Procedure has been made for issuance of direction to respondents No.2 and 3 to register F.I.R. against respondents No.4 to 12, who have kidnapped the son of petitioner No.1, namely, Mahant Sewa Dass.

According to the contents of the petition, son of petitioner No.1, namely, Mahant Sewa Dass Chela Mahant Sukhdev Singh of village Moom, District Barnala, being Head Sewadar of Dera Nirwansar, village Moom was taking care of the entire land belonging to Dera Nirwansar.

Respondent No.5 with the help of respondents No.6 to 12 with an evil

design started interfering in the peaceful possession of Mahant Sewa Dass illegally, forcing him to file a civil suit against respondent No.5. Vide order dated 24.03.2009, Additional Civil Judge (Junior Division), Barnala restrained respondent No.5 from interfering into the possession of Mahant Sewa Dass. The aforesaid order was confirmed in appeal filed by respondent No.5. Despite restraint order against respondent No.5, he, with the help of respondent No.4-ASI Amarjit Singh, kept on interfering in the possession of Mahant Sewa Dass to take forcible possession of the land of the Dera for which Mahant Sewa Dass filed a contempt petition No.673 of 2011 before this Court. The said petition was disposed of vide order dated 30.03.2011 with a direction to the police to ensure the implementation of stay orders passed by Civil Court. Thereafter, in the month of April, 2011, respondent No.4 alongwith respondents No.5 to 12 came to the Dera Nirwansar and gave beatings to Mahant Sewa Dass (son of petitioner No.1) and finally kidnapped him. Consequently, till date whereabouts of Mahant Sewa Dass are not known. Thereafter, the petitioners and Gram Panchayat of village Moom approached Director General of Police, Punjab and moved representations dated 25.06.2012 and 27.07.2012 Annexure-P5 and Annexure-P6 respectively against respondents No.4 to 12, but no action was taken against them. Petitioner No.1 was having doubt that respondents No.4 to 12, in connivance with each other, had kidnapped his son Mahant Sewa Dass and killed him to grab the property of the Dera, therefore, respondents No.2 and 3 may be directed to register an F.I.R. against respondents No.4 to 12 and to probe into the matter.

Upon presentation of this petition, notice of motion was issued

in the year 2012, whereupon the respondent-State filed its first reply on

19.12.2012. Thereafter, time and again, on direction of this Court, various status reports have been filed by the State by way of affidavits. Perusal of all these status reports shows that strenuous efforts have been made by the police authorities to trace out the whereabouts of Mahant Sewa Dass by giving wide publicity in various newspapers mentioning full description of missing Mahant Sewa Dass alongwith telephone numbers of the District Police Control Room, Barnala, besides the telephone numbers of S.H.O., Police Station Talewal and Office of Deputy Superintendent of Police that if any clue of Mahant Sewa Dass is found, same be intimated to them on their phone numbers.

That apart, proclamation of missing of Mahant Sewa Dass was also pasted at various places. The Special Investigating Team was also constituted headed by Deputy Superintendent of Police. Various meetings were also convened with the Senior Superintendent of Police, Barnala. Directions to chalk out the modalities for search of Mahant Sewa Dass were also issued to G.O.'s and subordinate of police personnel to achieve the goal of tracing Mahant Sewa Dass. Even, Incharge, C.I.A. Staff was directed to make strenuous efforts to ascertain the whereabouts of missing Mahant Sewa Dass.

It is pertinent to mention that on the prayer of the petitioners, C.B.I. was also joined in this case to locate Mahant Sewa Dass, who vide its report dated 28.09.2016, reported that the scrutiny of documents provided by local police reveal that the local police was making strenuous efforts to trace Mahant Sewa Dass under the close supervision of S.P. (Investigation), Barnala.

According to the status report dated 09.11.2014, even the list of unidentified dead bodies in the CIA Gazette for the year 2011-2014 alongwith photographs were shown to the petitioners as well as other relatives, but the missing son of petitioner No.1 could not be identified.

Moreso, besides incorporating the name and particulars of missing Mahant Sewa Dass in the Talash Software, huge number of persons were subjected to interrogation to achieve the goal of tracing the whereabouts of Mahant Sewa Dass.

Since last five years after filing of this petition in the year 2012, Mahant Sewa Dass, son of petitioner No.1, could not be traced by making strenuous efforts by the police authorities. Therefore, no purpose can be achieved by continuing with this petition any more.

Resultantly, this petition is disposed of with the direction to the petitioners that, in case, at any point of time, they locate or come in contact with Mahant Sewa Dass or know his whereabouts, they would inform respondent No.2-Senior Superintendent of Police, Barnala and would also assist and accompany the police team to procure the presence of Mahant Sewa Dass.

In case the petitioners inform about any clue of existence of Mahant Sewa Dass, respondent No.2 shall take immediate action to procure his presence under the guidance and assistance of the petitioners.

(RAMENDRA JAIN)
JUDGE

27.07.2017
jitender

Whether speaking/ reasoned

Yes/ No

Whether Reportable

Yes/ No