

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

**CRM-M-34453-2016
Date of decision :06.11.2017**

Hardev Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Ritesh Pandey, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab
for respondents No.1 to 3.

Mr. B.S. Jaswal, Advocate
for respondent No.4.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. has been filed by petitioner – Hardev Singh craving for issuance of direction to SHO Police Station Raja Sansi, District Amritsar (Rural) – respondent No.3 to act on the inquiry conducted by DSP, Sub-Division Raja Sansi dated 02.06.2015 (Annexure P-3) in which recommendation has been made to take action against Rajnish Kaur wife of the petitioner (respondent No.4) and her family members for committing fraud with the petitioner by preparing forged

documents.

Inter alia in the petition, it is contended that the the petitioner was married with respondent No.4 – Rajnish Kaur on 27.09.2009; Subsequently there arouse a matrimonial dispute between them, resultantly – respondent No.4 forced the petitioner to leave his house at Aliwal Road, Batala and the petitioner started residing at Amritsar; that at the time of marriage respondent No.4 had represented that it was her first marriage and after marriage between the petitioner and respondent No.4, when they had gone to office of Sub-Registrar to get the marriage registered, respondent No.4 had mentioned her status as unmarried and had furnished an affidavit in that regard; that marriage was registered vide No.288 of 12.04.2010, however after some time the petitioner came to know that respondent No.4 was earlier married with one Bhupinder Singh and had given birth to a son namely Mankaran Singh from his loins; that after the marriage with petitioner, respondent No.4 in connivance with her father and her family members change birth certificate of his son Mankaran Singh and got issued new certificate from the Local Registrar Birth and Death Department mentioning the name of the petitioner as father of the child in place of real father's name 'Bhupinder Singh', that certificate was issued on 05.4.2010; that the petitioner had submitted a complaint to the police regarding such fraud committed by respondent No.4, the matter was inquired into by SHO Raja Sansi, the inquiry was verified by DSP and they had recommended taking of action against respondent No.4 and her family member to respondent No.4 and her family member using their political influence got another inquiry marked to some other DSP and obtained favorable report

which is in violation of the instructions issued by DSP Punjab dated 23.03.2009 that no multiple inquiries should be conducted except prior permission of ADGPs; that the petitioner prays that the petition be accepted and necessary direction be issued to official respondents.

On notice the respondents put in appearance and they have filed separate replies, in the joint statement by official respondents No.1 to 3 in the form of affidavit of DSP, Raja Sansi, Amritsar Rural, several legal objections have been taken contending that the petitioner has not come to the Court with clean hands and has concealed material facts, besides, making representation to take undue benefit from the Court. As a matter of fact the petitioner had moved an application No.6775-P dated 19.12.2014 against his wife – respondent No.4 and other members of his in-laws members making allegations of their having played fraud with him, as regards marital status of respondent No.4 at the time of marriage between the petitioner and respondent No.4, the application was marked to then DSP Raja Sansi and thereafter to SHO Police Station Raja Sansi had conducted inquiry but he had not joined respondent No.4 therein and it was an ex parte inquiry in terms of which SHO Police Station Raja Sansi has recommended registration of criminal case after obtaining legal opinion thereon from District Attorney (Legal), but then report was not approved by SSP, Amritsar and DSP Raja Sansi was directed to conduct a fresh inquiry by joining other party. It was so done by DSP Raja Sansi, Amritsar (Rural) by joining all the concerned persons recording their statements and perusing the relevant record. Thereafter he came to the conclusion that allegations levelled by the petitioner in his application were not substantiated rather

those were found to be false levelled with *mala fide* intention to create pressure on respondent No.4 in order to take undue benefit with regard to case bearing FIR No.25 dated 21.01.2014 under Sections 498-A/406 IPC, Police Station Civil Lines, Batala got registered against the petitioner by respondent No.4 as a result of inquiry it come out that it was second marriage by both the parties i.e. the petitioner and respondent No.4; that respondent No.4 had answered an advertisement in Daily Ajit mentioning the details of first marriage and having a son due to that wedlock and that the petitioner himself with a *mala fide* intention had got changed name of father and residential address of Mankaran Singh son of respondent No.4 in school record by producing his own affidavit and got issued new birth certificate from Municipal Corporation Batala by providing wrong information; that as a result of inquiry report the application moved by the petitioner has been consigned to the office by the SSP, Amritsar Rural. On merits these very contentions have been reiterated while coming up with a prayer for dismissal of the petitioner. Written reply filed by respondent No.4 is almost on the similar lines.

I have heard learned counsel for the parties, besides going through the record and I find that there is no merit in the petition as has been clarified by the official respondents. The inquiry report submitted by SHO Police Station Raja Sansi which had been duly endorsed by DSP Raja Sansi had not been accepted and approved by SSP Amritsar (Rural) for the reason that in the said inquiry respondent side had not been joined and it was an ex-parte inquiry and rather a afresh was ordered to be conducted after joining both the parties and hearing their versions. Such action of

SSP, Amritsar (Rural) cannot be faulted for any reason. Principles of natural justice also required that nobody can be condemned unheard, the petitioner cannot insist that the report originally submitted by SHO Police Station Raja Sansi and endorsed by DSP Raja Sansi be acted upon, when inquiry had not been conducted properly and respondent side had not been joined therewith. As submitted by official respondents as a result of fresh inquiry conducted by joining both the parties, recording statements of witnesses and conducting a thorough probe, no merit was found in the allegations levelled in the application submitted by the petitioner and it has since been filed, therefore, no ground is made out to allow the petition in question and issue any direction to official respondents to act upon report by SHO Police Station Raja Sansi endorsed by DSP Sub-Division Raja Sansi dated 02.06.2015. The petition lacks merit and is dismissed accordingly.

06.11.2017*Gaurav Sorot*

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**