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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11783-2014

Date of decision : 14.03.2017

Bharat Bhushan and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Navkiran Singh, Advocate
for the petitioners.

Mr. Yatinder Sharma, Addl. A.G., Punjab.

Mr. S.P. Garg, Advocate
for respondent Nos.6 and 7.

AMIT RAWAL, J. (ORAL)

The petitioners have approached this Court with the following
prayer:-

*"Civil Writ Petition under Article 226/227 of the Constitution of India seeking issuance of the writ especially in the nature of mandamus directing the respondents No.1 to 5 to protect life and liberty of the petitioners and their family as well as the property at the hands of respondents No.6 * & 7.*

And

Further issuance a writ in the nature of mandamus directing the respondent No.3 to take action and conduct an enquiry/investigation and initiate appropriate criminal proceedings against respondents No.6 & 7 for illegally entering into the house of the petitioner and arresting the petitioner No.1 without there being any FIR by threatening to implicate the petitioners and their family members in the false NDPS cases.

And/Or

Further writ in the nature of mandamus directing the police officials especially respondent Nos.6 and 7 not to harass and arrest the petitioners in false cases.

And

Pass any other order, writ or direction which this Hon'ble Court may deem it appropriate in the facts and circumstances of the case in favour of the petitioner and against the respondents No.6 and 7."

This Court on 10.12.2014 passed the following order:-

"The petitioners' plea is that in all the cases which were prosecuted against them for alleged offences under the NDPS Act, they have been acquitted, but on the last occasion when a raid was conducted in the house of the first petitioner, they could find nothing incriminating against the petitioner but the second petitioner was taken into custody, interrogated and later let off. By the fact that the petitioners have approached this court, some of the police officials have taken umbrage and they have added the names of the petitioners in the criminal cases although in the FIRs, none of the petitioners' names has been disclosed. The grievance is that the petitioners' names are being included and they are being subjected to harassment by the police. The counsel for the State submits that there is a serious drug menace in the State of Punjab and the persons from whom the contraband articles had been recovered, have given statements implicating the petitioners, but the petitioners have made themselves scarce and not even available for interrogation.

The counsel for the petitioners himself submits that all the reliefs sought in the writ petition cannot be claimed in view of subsequent developments but he will be satisfied if all the case papers are placed before the senior police official to examine the papers and proceed with further interrogation only in

deserving cases where any material is disclosed against the petitioners.

Having regard to the fact that there is no reference to the petitioners in any of the FIRs on the original complaints and having further regard to the fact that the petitioners have been exonerated of any criminal offences, there being no pending cases in any court, the apprehension that they are being implicated needlessly is perhaps justified and I direct that the cases which are allowed to involve the petitioners shall be placed in the hands of Senior Superintendent of Police (Rural), Jalandhar (respondent No.3) and carry on further investigation as per his directions and abide by any directives that he may give on the basis of records. The 3rd respondent will submit a report before this court within a period of 8 weeks on the nature of decision taken and the stages of investigation in the respective cases. It shall be open to the 3rd respondent to require the presence of any of the petitioners before him before he concludes the report and submits the same in court.

Adjourned to 19.02.2015."

In view of the affidavit, there are about 12 cases pending, whereas the petitioners have been arrested, therefore, the grievance of the petitioners with regard to the relief sought cannot be vindicated as they are facing a criminal prosecution. The challan, in the aforementioned cases, has been filed, therefore, no cause of action survives in the present writ petition.

Disposed of, accordingly.

14.03.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**