

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

CWP-12937-2016

Date of Decision : 20.04.2017

P.S. Sawhney

.....Petitioner

versus

Union of India

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Petitioner in person.

Mr. Sukant Gupta, Addl.P.P.
U.T. Chandigarh.

M.M.S. BEDI, JUDGE (ORAL)

This is a petition filed by Mr. P.S. Sawhney who is a senior citizen, aged more than 70 years. He claims that through instant writ petition, he seeks a direction to the Chandigarh Police to register FIR after determining the source of threat mail received by him vide Annexure P-2 dated 10.02.2016. The contents of the email received by the petitioner read as follows:-

*“Subject: YOUR LIFE AS BEEN PAID FOR
From: Serial Killer (KSHBRIT@aol.com)
To: prtipalsawhney@yahoo.com;
Date: Tuesday, 9 February 2016 5:08 PM*

Attention, I am very sorry for you, is a pity that this is how your life is going to end as soon as you don't comply. As you can see we are the members of the Deadly Networks in the world, which is responsible for the bombing of twin [SO-8859-1?]tower?s in

America on Sept. 11th and the bombing of London transport services on July 7th (AL-QAEDA NETWORKS WORLDWIDE), I don't have any business with you, my duty as I am mailing you now is just to KILL you and I been paid for that.

Someone who you called your friend wants you dead by all means, and this person have spent a lot of money in this venture, This person came to us and told me that he wanted you dead and he provided us with your name, picture and other necessary information's we needed about you.

So I sent by boys to track you down this including bugging of your phones with satellite tracking devices and they have carried out the necessary investigation we needed for the operation on you, and if you doubt this information am going to give you all the necessary information about you back to you in your next reply so that you can believe me, and my boys are really on you but I told them not to kill you that I will like to contact you and see if your life is important to you and the one of your family. I called my client back and ask him of your email address which I didn't tell him what I wanted to do with it and he gave it to me and I am using it to contact you now. As I am writing you this mail my men are monitoring you and they are telling me everything about you.

Now do you want to LIVE OR DIE? Since all program has be made and draw to kill you. Get back to me now if you are ready to pay some fees to spare your Life, \$8,000 is all you need to spend in this

process you will first of all pay \$3,000 and then I will send a tape to you which I recorded in every discussion I had with the person who wanted you dead and as soon as you get the Tape, You will pay the remaining balance of \$5,000. If you are not ready for my help, then I will carry on with my job straight-up.

WARNING: DO NOT THINK OF CONTACTING THE POLICE OR EVEN TELLING ANYONE BECAUSE I WILL KNOW, REMEMBER, SOMEONE WHO KNOWS YOU VERY WELL WANT YOU DEAD! I WILL EXTEND IT TO YOUR FAMILY, INCASE I NOTICE SOMETHING FUNNY ABOUT YOUR TELLING THE SECURITY ABOUT IT BECAUSE A GOOD LOOK IS OUT YOU AT THE MOMENT. DO NOT COME OUT ONCE IT IS 8PM UNTIL I MAKE OUT TIME TO SEE YOU AND GIVE YOU THE TAPE OF ALL DISCUSSION WITH THE PERSON WHO WANT YOU DEAD THEN YOU CAN USE IT TO TAKE ANY LEGAL ACTION. GOOD LUCK AS I AWAIT YOUR REPLY.”

On notice having been issued to the respondents, respondent No. 4 has filed reply pleading that on inquiry having been conducted, it has been found that the threat email was sent from KSHBRIT@aol.com on email account of petitioner prtipalsawhney@yahoo.com but the details and user of KSHBRIT@aol.com could not be ascertained but it was revealed that the email is hosted on New York server in USA. The said information was derived from the website www.domaintools.com. Petitioner had been informed in this regard vide Annexure P-4, a letter dated 29.04.2016.

The petitioner, who has appeared in person has submitted that in view of judgment in *Dharampal versus State of Haryana*, 1999 (4) R.C.R. (Criminal) 600, it is mandatory for the State to register FIR if the cognizable offence is made out.

I have considered the contention of the petitioner appearing in person and I am of the opinion that the authenticity of the alleged email threat being doubtful and there being no other material made available indicating threat to the life of the petitioner and the inquiry having already been conducted by the police, it cannot be said that any cognizable offence has been committed by any particular person. The judgment in *Lalita Kumari versus Government of U.P.* 2013 (4) RCR Criminal 979 (SC), in my opinion, would be applicable in the present case, in which it has been held that an inquiry can be conducted before registration of the FIR. On the basis of the inquiry conducted, no case has been made out for registration of FIR. The petition thus deserves to be dismissed.

However, this Court is of the opinion that in case, it is presumed that the email threat endangers the life and liberty of the petitioner, he, as a citizen of India has certainly got the right to seek protection from the State, in view of the provision of Article 21 of the Constitution of India. A direction is accordingly issued to the Senior Superintendent of Police, Chandigarh to ensure that life and liberty of the petitioner is protected and it is further directed that in case of any imminent threat to the petitioner, it will be open to the petitioner to approach the Senior Superintendent of Police or the concerned SHO of the area. In case any such request is made, the concerned police officials will be bound to

ensure that the life and liberty of the petitioner is protected.

The petition is disposed of with the aforesaid directions.

It will be appreciated, in case the petitioner being a senior citizen, his welfare is taken care of taking into consideration the rights of the senior citizens under the Maintenance and Welfare of Parents and Senior Citizens Act 2007, a legislation which is made not only for the welfare of the parents but for the welfare of every citizen. It will also be open to the petitioner that in case of any imminent threat to his life and liberty, he would be entitled to approach the concerned District Magistrate also.

The petitioner appearing in person has submitted that circumstances of the case warrant that CBI should be given a direction to look into the threatening letter. Since the authenticity of the threatening letter is debatable and the case does not fall within the parameters laid down in *State of West Bengal and others versus The Committee for Protection of Democratic Rights West Bengal and others*, 2010 (2) R.C.R. (Criminal) 141, no ground is made out to issue a direction to the CBI to look into the matter.

(M.M.S. BEDI)
JUDGE

20.04.2017
Neha

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No