

CWP-16302-2014

Date of Decision : 17.01.2017

Hanuman

.....Petitioner

versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Arjun Lakhanpal, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl.A.G., Haryana.

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

Through instant writ petition, the petitioner has challenged order dated 06.08.2013 (Annexure P-1) passed by respondent No. 2 declining to grant sanction for prosecution of respondent No. 3 – Jaivir Singh.

The petitioner had lodged a complaint recorded as Daily Diary Report No. 20 on 22.06.2013 on account of petitioner having received six injuries. The claim of the petitioner is that respondent No. 3 had demanded illegal gratification from him.

As per the writ petition, on 19.05.2013, Sunder, Mahender etc. had caused injuries on the person of the petitioner by entering into his Dhani and the matter was reported to the police vide DDR No. 20 dated 22.06.2013. However, respondent No. 3 colluded with the opposite party and instituted a false case against the petitioner.

Petitioner claims that he himself had received six injuries and that respondent No. 3 demanded illegal gratification. He moved an application for prosecution of respondent No. 3 by seeking a sanction

from the Superintendent of Police, Fatehabad. A complaint had also been filed by the petitioner before the Additional Sessions Judge, Fatehabad which was dismissed on 10.03.2014 for absence of necessary sanction vide Annexure P-2. The grievance of the petitioner is that order Annexure P-2 is non-speaking order without application of mind.

In view of said circumstances, a direction is sought for setting aside the order Annexure P-1 dated 06.08.2013. This petition has been filed for a direction to get sanction. The plea of the respondent, State, is that the complaint filed by the petitioner complainant against respondent No. 3 has been considered and the factum of an FIR of assault having been registered against the petitioner with the allegations that he caused injuries to Sunder and others, vide order dated 06.08.2013, respondent No. 2 had found that no serious offence has been made out against respondent No. 3, as such, an order was passed by respondent No. 2, copy of which has been placed on record as Annexure R-1/T. The report of the Superintendent of Police, Fatehabad reads as follows:-

“The investigation of complaint was done by Incharge of PS Sadar Fatehabad in which it was found out that the complainant has filed a false complaint to put pressure in regard to case No.218 dated 23.5.2013 u/s 323/324/506 IPC PS Sadar Fatehabad against the complainant himself. The complainant has earlier also give complaint No.891-P dated 19.06.2013 against respondent HC Jaibir Singh, the investigation of which was done by me. As per the complaint commission of no serious offence was found out. The report is presented for orders after entry of complaint in official record.”

A perusal of the above said order indicates that the

investigation has been conducted by the Superintendent of Police, Fatehabad himself in the complaint of petitioner which is permissible under Section 36 of the Criminal Procedure Code entitling superior officers to exercise the similar powers as that of the Investigating Officer within the territorial limit of jurisdiction. The petitioner does not have a legal enforceable right to challenge the administrative order refusing to grant of sanction, unless and until, there is patent, *mala fide*, or glaring violation of any statutory provision. No such violation has been brought to the notice of this Court, as such, there does not appear to be any ground to interfere in the decision of respondent No. 2 to grant sanction for prosecution of respondent No. 3 – Jaivir Singh.

Dismissed.

(M.M.S. BEDI)
JUDGE

17.01.2017
Neha

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No