

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

CRM-M-12738-2018 (O&M)

Date of decision:11.10.2018

Sanjay

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Varinder Singh Rana, Advocate, for the petitioner.

Mr. Surender Singh, AAG, Haryana.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition is for marking enquiry to the Judicial Officer of District Bhiwani or some independent agency like CBI in the matter of giving beating by respondents No.3 to 5 to the petitioner, at the instance of respondent No.6 on 01.02.2018 at 3.00 p.m.

It is submitted in the petition that on 01.02.2018 at about 3.00 p.m., the petitioner was illegally picked up and kept in illegal custody in Police Station Siwani. At the police station, the petitioner was beaten mercilessly. On the next date i.e. 02.02.2018, the petitioner was taken to CIA-1 Bhiwani and again beaten by the police officials. All this was done by police because the cousin brother of respondent No.6 was posted in CIA staff, Hisar. It is further averred that due to injuries caused by the police, the petitioner was admitted to hospital. The Hospital had even charged Rs.23,800/- for the treatment. However, the above said police officials approached the hospital also and forced the doctor to discharge the petitioner from the hospital; without giving the proper treatment to him.

Resultantly, the petitioner was discharged from the hospital on 04.02.2018.

Notice of motion was issued.

The reply has been filed on behalf of respondents No.1 to 5.

A perusal of the reply shows that incident of giving beating to the petitioner has not been specifically denied in the reply. Even this is not denied that the petitioner was admitted in the hospital on account of injuries suffered by him. However, the reply tries to deflect the case in a different direction; by pleading that the opinion of the doctor was taken; in which he opined that the possibilities of the injuries being received by the petitioner due to a fall from height cannot be ruled out. Still further, it is pleaded that the petitioner had made a statement to the same police officials; that he does not want to proceed further in the matter.

From the facts mentioned above, it appears to be a case where the police officials, firstly, tortured a citizen and thereafter, tried to hush-up the matter by making an attempt to fabricate the evidence. Even otherwise there are injuries on the body of the petitioner. The alleged the opinion of the doctor; qua the possibility of injuries having been received by fall from height, could have only been a defence of the accused; who are alleged to have given beating to the petitioner. Although the reply says that the petitioner had made a statement that he does not want to proceed further in the matter, however, counsel for the petitioner has categorically denied the petitioner having made any such statement. However, counsel for the petitioner submits that just as the petitioner was mercilessly beaten and threatened in a police station and the same way the doctor was pressurized to discharge the petitioner from the hospital. So it would not be impossible that the petitioner was also forced to put his signatures on the statement.

In any case, petitioner has already moved a complaint to the

Senior Superintendent of Police, in this regard. The same are attached with the present petition also as Annexures P-7 and P-8.

In view of the above facts, it was incumbent upon the Superintendent of Police to consider the matter, whether a criminal case deserves be registered against the delinquent police officials or not, by looking into the complaint and seeing if any cognizable offence is disclosed from the allegation made in the complaint or not. This is the mandate of the Hon'ble Supreme Court as per the judgment rendered *in Lalita Kumari vs. Government of U.P. and others 2012 Air (SC) 1515*, which casts a duty upon the police to register the FIR, in case the ingredients of the cognizable offence are disclosed in a complaint.

Therefore, this Court finds that ends of justice would be met if the Superintendent of Police, Bhiwani is directed to apply his mind to the complaint filed by the petitioner; with a purpose to find out whether any cognizable offence is disclosed from the allegations made in the complaint Annexures P-7 to P-8.

Accordingly, the Senior Superintendent of Police, Bhiwani is directed to consider the complaint made by the petitioner at Annexures P-7 to P-8 and to see, if any cognizable offence is made out from the allegations made in the complaint or not. It is further directed that, in case, the cognizable offence is disclosed by the allegations; as contained in the complaint; then the necessary FIR shall be registered against the police officials, named in the complaint under the relevant provisions of penal law.

By way of abundant caution, it is clarified that while considering the complaint filed by the petitioner; the Superintendent of police shall not take into consideration the possible defence of the police

officials; and he shall restrict himself to the allegations contained in the complaint made by the petitioner.

With the above said direction, the present petition is disposed of.

It is further directed that the necessary exercise shall be carried out by the Superintendent of Police, within 15 days from the receipt of the certified copy of this order.

(RAJBIR SEHRAWAT)
JUDGE

11.10.2018
Hemlata

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