

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

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**CRM-M-267-2016 (O&M)
Date of Decision : 12.10.2018**

Ram Chand

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:HON'BLE MR. JUSTICE P.B.BAJANTHRI

Present: Mr. A.S.Syan, Advocate for the petitioner.

Mr. D.S.Sukarchakia, DAG, Punjab.

P.B. BAJANTHRI, J.(ORAL)

In the present petition, petitioner has sought for issuance of direction to respondents No.1 to 3 to investigate fairly and impartially and without any political pressure in FIR No. 101 dated 30.07.2014 under Section 365 IPC, registered at Police Station Nangal, District Ropar and recover the kidnap boys namely Krishan Garg, grand son of the petitioner with time bound period and the report of Special Investigating Team be called immediately and further direction be issued to hand over the investigation to Central Bureau of Investigation.

2. This court vide judgment dated 08.01.2016 dismissed the present petition while observing as under:-

"There cannot be second view that free and fair investigation should be conducted with regard to allegations of kidnapping of Krishan Garg, grand-son of the petitioner. In the earlier petition filed on the similar grounds, this Court had passed the following order:-

"Learned counsel for the State, on

instructions from ASI Sardara Singh of Police Station, Nangal, District Roopnagar, submits that within four months from the passing of the present order, the report under Section 173, Cr.P.C., would be presented before learned Area Judicial Magistrate.

In view of above, learned proxy counsel for the petitioner does not press this petition at this stage.

Ordered accordingly.”

The argument of learned counsel for the petitioner that proxy counsel had appeared on 01.12.2015 before this Court was not aware of the facts of the case, is not tenable.

While disposing of the earlier petition, this Court had perused the material and found that the learned counsel for the State, after taking proper instructions from ASI Sardara Singh, Police Station, Nangal, District Roopnagar, had suffered the statement that the report under Section 173, Cr.P.C., would be presented within four months from the date passing of the said order. Repeated petitions seeking similar relief cannot be appreciated.

Keeping in view the totality of the facts and circumstances of the case, no ground for passing fresh order is made out.

Dismissed.”

Aggrieved against the order dated 08.01.2016 petitioner preferred criminal appeal Nos.166-167 of 2016 (Arising out of SLP(Crl.) 1231-1232 of 2018) whereby order passed by this court was set aside vide judgment dated 26.02.2016 and matter was remitted to this court for disposal in accordance with law. Petitioner had approached Supreme Court once again in Special leave to appeal No. 4273 of 2017 which was also disposed of.

3. Learned counsel for the petitioner further submitted that the Supreme Court vide order dated 27.04.2018 against order dated 20.03.2017 passed in the present petition remanded the matter to High Court. Order dated 20.03.2017 of this court reads as under:-

"Learned State counsel on instructions from ASI Harbans Singh submits that investigation was completed by Special Investigating Team and an untraced report was submitted. The said report was rejected by the trial Court and the prosecution was directed to conduct Lie Detector, Brain Mapping, Polygraphy and Narco Analysis Test upon Suresh Kumar (complainant), Jagdev Singh Kaku and Suring Pal Singh Kohli. The aforesaid persons have given their consent for the aforesaid tests before the trial Court. Needful in the aforesaid context is yet to be done.

Post for further consideration on 12.05.2017."

Order dated 27.04.2018 passed by the Supreme Court reads as under:-

"Having heard Mr. R.K.Kapoor, learned counsel for the petitioner, we are not inclined to interfere with the impugned order passed by the High Court as it is interim in nature. However, we are of the considered opinion that the High Court should have expedited the hearing and delivered the judgment. Regard being had to the same, we request the High Court to dispose of CRM-M-267-2016 within three months hence.

Needless to say, all contentions raised by the petitioner can be advanced before the High Court including the prayer to transfer the investigation to the Central Bureau of Investigation.

The special leave petition stands disposed of

accordingly."

4. During pendency of the present petition, State of Punjab constituted SIT in view of order dated 22.11.2016. Further SIT submitted its report on 19.02.2018. Till date the petitioner has not made necessary amendment to the petition if he is aggrieved by the SIT report dated 19.02.2018. In the absence of amendment to the petition to the extent of challenging SIT report, in the absence of amendment to petition, SIT report cannot be gone into. At this stage, it was submitted objections to SIT report is filed, merely filing objections to SIT report dated 19.02.2018 one cannot draw inference that there is challenge to the SIT report dated 19.02.2018. Accordingly, petition stands disposed of reserving liberty to challenge SIT report dated 19.02.2018, in accordance with law.

5. Order of Supreme Court cited above is after rejecting the petitioner's plea made only an observation to apprise this court relating to handing over the matter to CBI. Having regard to the petitioner's prayer read with SIT report, as long as SIT report is not challenged by the petitioner and if he is not satisfied and not challenging the same even to this day question of considering the matter be referred to CBI or not, do not arise.

12.10.2018

pooja saini

**(P.B. BAJANTHRI)
JUDGE**

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No