

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

Sr. No.226

**CRM-M-13129 of 2018
DECIDED ON: January 25, 2019**

BALKAR SINGH

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Mohinder Kumar, Advocate,
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

SUDHIR MITTAL, J. (ORAL)

The petitioner has prayed for direction to respondents No.1 to 3 to conduct a high level inquiry and to protect his life and liberty as he is being harassed and threatened by respondent No.6 who is the SI/SHO, Police Station Bilga and for taking appropriate action thereupon against the said respondent.

Learned counsel for the petitioner submits that the petitioner is a resident of Canada. He had a dispute with his brother regarding property. His brother, in connivance with some police officials, got a false LOC issued against him. The matter was brought to this Court and it transpired that the LOC was in fact false and motivated and accordingly departmental action was recommended against the erring police official. Thereafter, a

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family settlement took place between the petitioner and his brother and a mutually agreed partition of land was effected vide settlement deed dated 09.03.2016 (P-6). Thereafter, the dispute between them came to an end. However, when the petitioner came to India again on 11.01.2018, he was called to Police Station Bilga by respondent No.6 on 02.02.2018 and was illegally detained in the police station from 3.00 p.m. to 5.00 p.m. and was verbally told that he should not enter upon the land which he was cultivating. Thereafter, a complaint was made by the petitioner on 03.02.2018 on police helpline 181 but no action was taken thereupon and thus, a complaint in writing dated 26.02.2018 was submitted before the Senior Superintendent of Police, Jalandhar Rural. The same was marked to Deputy Superintendent of Police, Nakodar and the petitioner was harassed by the said officer whenever he went to attend the inquiry as he was made to sit and wait in the office without recording his statement. Ultimately, the petitioner return to Canada on 04.04.2018 and thereafter, notices were issued by the Deputy Superintendent of Police, Nakodar asking him to join the inquiry but obviously he could not do so as he had already left the country. Thus, it is obvious that respondent No.6 is unnecessarily harassing the petitioner. The petitioner is in possession of his land exclusively after the family partition and the police is not entitled to interfere therein. Appropriate action is thus required to be taken against respondent No.6.

Reply dated 01.08.2018 by way of affidavit of Senior Superintendent of Police, District Jalandhar (Rural) has been filed. It is stated therein that the alleged incident dated 02.02.2018 never took place.

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An application dated 03.02.2018 was received from Avtar Singh (brother of the petitioner) regarding unlawful lifting of sand by the petitioner and thereafter, the petitioner was called to the police station on 03.02.2018. The petitioner also filed an application dated 01.03.2018 stating that Avtar Singh and his associates had come to the land of the petitioner and had threatened him by firing bullets. Consequently, a Kalendra under Sections 107, 150 Cr.P.C. was registered. Regarding harassment at the hands of respondent No.6, it is stated that an inquiry was got conducted by Deputy Superintendent of Police, Nakodar who vide inquiry report dated 18.05.2018 stated that allegations of harassment were unfounded.

A counter affidavit to the aforementioned affidavit has been filed on behalf of the petitioner in which an audio recording dated 06.02.2018 has been annexed, according to which, the petitioner and respondent No.6 had a conversation regarding the petitioner being restrained from lifting sand.

From the affidavits of the parties, it has been established that the brother of the petitioner had submitted an application for restraining the petitioner from lifting the sand. This is also corroborated by the audio recording dated 06.02.2018 filed by the petitioner in his counter. Under the circumstances, there is no material on record to hold that the police action was illegal or mala fide. In the inquiry conducted by Deputy Superintendent of Police, Nakodar, the alleged incident of 02.02.2018 has been found to be false. Thus, the contention of the petitioner that he is being harassed by the police cannot be accepted.

In view of above, the petition is disposed of with the observations that the police is duty bound to uphold law and order in the

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State. Its actions must always be above reproach and nothing should be done by any police official which gives rise to an apprehension in the mind of the public that the same is motivated. Now that the petitioner has returned to Canada, no further action is called for but the local police would be well adviced to keep this incident in mind and to ensure that nothing is done which creates apprehensions in the mind of the petitioner.

January 25, 2019
Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No