

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

CRM-M No.15946 of 2018
Date of decision: 7th January, 2019

Sohan Singh & others

... Petitioners

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Preetinder S. Ahluwalia, Advocate for the petitioners.

Mr. Saurav Khurana, Dy. Advocate General, Punjab with
ASI Dilbagh Singh, PS Sadar, Patti
for respondents No.1 to 3/State.

Mr. Gaurav Kalsi, Advocate for respondents No.4 and 5.

FATEH DEEP SINGH, J.

The petitioners, namely Sohan Singh, Bachhittar Singh, Gurvinder Singh, Jugraj Singh alias Joga and Ninder Singh, who are accused in case bearing FIR No.50 dated 23.03.2018 under Section 376 IPC and Section 10(3) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 pertaining to Police Station Patti, District Tarn Taran (Annexure P3), have invoked jurisdiction of this Court under Section 482 Cr.P.C. seeking transfer of investigations to an agency of repute or to a special investigating team as the official respondents are carrying on investigations contrary to the principles of natural justice falsely fabricating evidence and are working under the political influence for attaining a sinister design of political vendetta.

The petitioners in their petition claim that father of petitioner No.1 and grandfather of petitioners No.2 and 3, namely Kashmir Singh happened to be the Sarpanch of village Rasulpur, District Tarn Taran from the year 2008 to 2014 and thereafter mother of petitioner No.3 namely Dalbir Kaur was elected as Sarpanch. It is alleged that the petitioners are staunch supporters of Shiromani Akali Dal (Badal) and on account of their influence in the area, have been continuing to be the Sarpanch of their village for the last more than eight years. It is alleged that the local sitting MLA happens to be from the opposition party of Congress and on account of political victimization had got false case registered against the petitioners which is annexed as Annexure P/1. It is alleged that a bare perusal of the FIR shows the abundant misuse of the process of the Law and the futile effort in false implication of the entire family of the petitioners for a motivated cause and thus, sought that the alleged allegations need to be investigated by an agency of repute.

The official respondents in their reply which has been adopted even by the private respondents, though took the preliminary objections that the petition was an outcome of misrepresentation of the facts and denied any such representation earlier made by the petitioners side apprehending their false implication and claimed that the police had acted in a fair and impartial manner on the allegations of the complainant. On merits though accepted the inter-se relationship of the petitioners and the fact that they are owing allegiance to Akali Dal (Badal) party but denied the allegations so levelled against the respondents and claimed

that the FIR so claimed by the petitioners to have been falsely registered was based on truth and there were genuine allegations and sought dismissal of the petition.

Upon hearing Mr. Preetinder Singh Ahluwalia, Advocate for the petitioners; Mr. Saurav Khurana, Dy. Advocate General, Punjab assisted by ASI Dilbagh Singh from Police Station Sadar, Patti on behalf of respondents No.1 to 3/State and Mr. Gaurav Kalsi, Advocate representing respondents No.4 and 5, and on perusal of the records. As is there and is so apparent from the stand of the respondents in their written reply, the inter-se relationship of the petitioners is not at all put to dispute, together with the fact that the petitioners belong to political party of Shiromani Akali Dal (Badal) and the fact that they were retaining the seat of Sarpanch of the village for the last eight years. As has been highlighted by learned counsel for the petitioners, the present case by way of FIR (Annexure P3) has come about from the statement of one Paramjit Kaur wife of Malkiat Singh resident of Nurdi Adda, Tarn Taran. The very arguments that have been put forth by learned counsel for the petitioners that in the said FIR (Annexure P3) which is subject matter of present dispute between the parties, the complainant claims that she was going to meet her massi Sukhwinder Kaur when on the way accused had ravaged her. The claim of the petitioners that alleged massi Sukhwinder Kaur is none other than the wife of Manjit Singh who happens to be complainant in FIR (Annexure P1) which is also against the present petitioners and the former also happens to be an eye-witness of the said

FIR. Furthermore, undisputedly representations (Annexure P4) were addressed to higher officials by the petitioner side on 09.01.2018, showing their apprehension of being involved in false criminal cases and which is also substantiated from Annexure P6.

Though the Court is not supposed to critically examine the case of the complainant, however, for the sake of convenience on the attention drawn by learned counsel for the petitioners to the MLR of the victim in FIR (Annexure P3) that there are allegations of gang rape and physical abuse of the victim at the hands of the petitioners but a close at the MLR (Annexure P7) would show that nothing is even remotely suggestive of the victim having ever been ravaged and rather what is most astonishing is the observation that there is no sign of injury or struggle present much less any sign of being ravaged as claimed in the allegations of the FIR. The victim claims that she was stopped and forcibly thrown into the car and was thereafter taken to a tubewell room where her clothes were forcibly removed and all the accused petitioners, who she claims to be numbering five of different age groups ranging between 19 to 60, have raped her one by one and where she was kept throughout the night. To the specific query of the Court as to any corroborative medical or other evidence to these allegations of gang rape and physical abuse, learned counsel for the respondents was clearly at loss of words. What one can deduce from the contentions of the two sides, there is clearly a history of political rivalry which has led to repeated registration of FIRs against family of the petitioners.

Thus, from all this discussion, it is quite apparent that all is not well with the investigations and there is a strong element of suspicion lurking before the Court that there is an all out effort to stifle due process of law for a politically motivated cause to attain a sinister design and thus, extinguish all the likely political opposition to the sitting MLA of the area and thus, apparently from the face of all these, it bears out that there is every likelihood that administration and dispensation of justice might be a casualty at the hands of the official respondents. It would be in the interest of justice and fitness of things if investigation of the present FIR (Annexure P3) is transferred from police of District Tarn Taran and entrusted to the State Crime Bureau, Punjab at Chandigarh with further directions to ensure that a senior IPS officer heads the special team to investigate into these allegations and which will constitute members having good track record and ensure that they carry on the investigation efficiently, impartially and without any undue influence, so that justice is meted out to both the sides with all fairness. With these observations, the present petition stands allowed and disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

January 7, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No