

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

**CRM-M-24564-2018**

Date of decision: July 24, 2019

Dheeraj

....Petitioner

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present: Mr. J.S. Hooda, Advocate  
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

**ARVIND SINGH SANGWAN, J.** (Oral)

Prayer made in the petition is for transfer of investigation in FIR No.11 dated 12.1.2018 under Sections 307/34 IPC, Sections 25/54 of the Arms Act and Section 3 of the SC/ST Act registered at Police Station Hathin, District Palwal.

On 18.1.2019, the following order was passed :-

“Reply, by way of affidavit of Superintendent of Police, Palwal, is on record. As per reply, it is stated that after the incident, the petitioner was medico-legally examined at Govt. Hospital, Palwal and on the basis of the same, the FIR was registered. It is further stated that during investigation, it was found that the accused persons are not involved in the commission of offence on the basis of an inquiry conducted by DSP/Investigating Officer.

Learned State counsel, on instructions from ASI Fateh Singh, submits that the police has completed the investigation and is contemplating to file an untraced report.

Learned counsel for the petitioner submits that accused persons are named in the FIR and the case of the petitioner is duly supported by the medical evidence, however, on account of undue pressure, the untraced report is being filed.

List again on 29.04.2019.

The Director General of Police, Haryana is directed to constitute an SIT to conduct the further investigation and submit a status report to this Court on or before the next date of hearing.”

The status report, by way of affidavit of Deputy Superintendent of Police, Hodal was filed subsequently on 29.4.2019 and as per the affidavit Special Investigation Team (SIT) was constituted for further investigation of the FIR. The operative part of the affidavit reads as under :-

“3. That the SIT, further investigated the matter thoroughly and during the course of investigation, the file was perused and found that on 11.1.2018, an information was received at the police post Madkola, P.S. Hathin, Palwal that Dheeraj son of Udaiveer resident of village Mandhnaka is admitted in the General Hospital, Palwal due to gun shot injury, on which ASI Jamshed Ali, along with Ct. Abdul immediately reached at the GH Palwal and obtained MLR of the injured bearing No.GH/111/1/18 dated 11.1.2018 and rukka was obtained from the Medical Officer, in the MLR Medical Officer

enumerated two injuries and the injured was found referred to the High Center. Thereafter, on 12.1.2018, the investigating Officer reached at the house of the injured in the village Mandhnaka, where the injured moved a written complaint, on which FIR No.11 dated 12.1.2018 under Sections 307/34 IPC and 25 of Arms Act and SC/ST Act was registered at the Police Station Hathin, District Palwal.

4. That it is relevant to mention here that during the course of further investigation conducted by the SIT, Ganga Lal son of Govindram, Trilok Chand son of Netram, Virender son of Mangal, Ranbir son of Mahabir, Ranglal son of Banwar Singh, Teekam son of Ganga Sahay, Gulab son of Ranchand, Ramesh son of Narayan, Sunder son of Gulab, Govind son of Bharta all the residents of village Mandhnaka, Sunder son of Satiram and Ratan Singh son of Sheeshram, Prakash son of Dalu, Pooran son of Bhole, Madan son of Bhamboli, Prahlad son of Dheelaram, Ashish son of Ranjeet, Ram Charan son of Teji and Sher Singh son of Govindram residents of village Khokiyaka, Preetam Sarpanch resident of village Poothli joined the investigation and furnished their affidavits also and stated that the accused namely Ganga Lal and Trilok were wrongly named in the case due to the party politics. They also stated that the complainant is habitual litigant and whole village is disturb due to him. It is also relevant to mention here that notice was also served upon the accused persons, on which the accused persons came present at the office of the investigating officer and joined the investigation and they are cooperating with the investigation at every point. Hence, on the basis of the statements of the respectable persons

of the society and other investigation the accused persons namely Ganga Lal and Trilok were found innocent.

5. That it is also relevant to mention here that earlier also a detailed investigation was conducted by the then Deputy Superintendent of Police, City Palwal and during that investigation neither blood marks were found nor empty cartridges were found at the spot. As per the version of complainant, he went for the call of nature in the field on 11.1.2018 at about 6.00 p.m. and while returning back he found Trilok, Gangalal and one another person who stopped his way and fired gun shot at him. One gun shot hit at the shoulder of the complainant and another two rounds fired by Gangalal escaped him and then complainant ran from the spot but all the three accused had not chased him. During the course of investigation, it is found that Gangalal, Trilok and Virender were sitting in the field of Virender and were consuming liquor. The affidavit to this behalf is also tendered by Virender s/o Mangal Singh r/o Mindkola. During investigation Section 3-33-89 SC/ST \Act was earlier deleted and Section 34 IPC was added and also during the investigation the circumstances were found to be suspicious and investigation is going on to ascertain the truth in the matter.

6. That it is also relevant to mention here that according to the FSL report gun powder was detected on the swab taken from the skin of the injured. It is also relevant to mention here that best efforts were made to trace the real culprits, but still no clue was found, hence untrace was prepared on 4.4.2019 and the investigation shall be re-opened, whenever any clue is found.”

Learned State counsel, on instructions from ASI Fateh Singh has further stated that during the investigation, even the report of the Board of Doctors, with regard to the injury sustained by Dheeraj, was obtained and it was reported that opinion of the Board cannot be given out before securing the ballistic report from the FSL, Madhuban, and the possibility of friendly hand or self-defence cannot be ruled out. Learned State counsel has further argued that in view of the inquiry conducted by the police, the police is now going to file an untrace report before the trial Court.

Counsel for the petitioner has, however, stated that the petitioner has named two persons, namely, Ganga Lal and Trilok in the complaint given to the police. Thereafter, the police has given them clean chit on the basis of the statement recorded by the number of co-villagers during the enquiry.

Since the police has prepared the cancellation report which is likely to be presented within four weeks from today, this petition is disposed of relegating the petitioner to approach the trial Court by way of filing a protest petition/complaint.

Ordered accordingly.

**July 24, 2019**  
**satish**

**( ARVIND SINGH SANGWAN )**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No