

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

CRM-M-30326-2017 (O&M)

Date of decision : 17.12.2019

Krishan and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naresh Kaushik, Advocate for the petitioners.

Mr. Manish Bansal, DAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

The petitioners have filed the present petition under Section 482 Cr.P.C. seeking quashing of FIR No.383 dated 24.12.2014 registered under Sections 182/193/420/468/471/34 of the Indian Penal Code at Police Station Rai, District Sonapat, alongwith all consequential proceedings.

Keeping in view the allegations made in the petition, on 20.11.2017, following order was passed:-

“The petitioners are seeking quashing of FIR No.383 dated 24.12.2014 under Sections 182/193/420/468/471/34 IPC registered at Police Station Rai, District Sonapat.

Learned counsel for the petitioners contends that the petitioners are being made accused by the police officials and the instant FIR has been registered on the ground that petitioners had falsely lodged a complaint against the police officials. He further contends that police officials are inimical to the petitioners and FIR No.179 dated 09.06.2011 under Section 309 IPC registered at Police Station Kundli, District Sonapat against petitioner No.1, has been quashed by a co-ordinate Bench of this Court by the order dated

17.09.2014 passed in CRM No. M-36657 of 2011.

Issue notice to the respondent.

Notice re:stay as well.

At the asking of Court, Mr. Vikas Malik, Deputy Advocate General, Haryana, accepts notice on behalf of the respondent. A complete set of paper-book be supplied to him during the course of day.

List on 15.12.2017.”

Thereafter, on 19.08.2019, following order was passed:-

“Learned counsel for the petitioners contends that petitioner No.1 was wrongly challaned under the Motor Vehicles Act and detained in police custody. He paid the fine as imposed and thereafter filed a complaint before the Haryana Human Rights Commission, Chandigarh complaining against illegal detention. Human Rights Commission directed the Director of the Investigation to obtain report from the Superintendent of Police, Sonipat on the complaint filed by the petitioners. The police rather than submitting a report has registered FIR under Sections 182, 193, 420, 468, 471 read with Section 34 of the Indian Penal Code.

Arguments have been heard at some length.

Counsel for the State prays for more time to assist this Court.

Adjourned to 23.08.2019.

To be listed in the urgent.

It is made clear that no further request for an adjournment shall be entertained.”

On 26.08.2019, after hearing learned counsel for the parties at some length, Director General of Police, Haryana was requested to examine the complete file and file his comments on the assertions made in the

petition.

Reply by way of affidavit has been filed wherein it has been pointed out as under:-

“3. That the gist of the allegations of the petitioners is that the petitioners were detained illegally on 21.04.2014, in police lock up and Police officials had snatched an amount of Rs. 4,200/- and forcibly took the signature of Krishan (petitioner No. 1) at the instance of Ajit Singh, the then Deputy Superintendent of Police, Kharkhoda. It is also alleged that thereafter a false case FIR No. 383, dated 24.12.2014, u/s 182,193,420,468,471 read with section 34 IPC, P.S Rai, district Sonapat, Haryana was registered against the petitioners.

4. That petitioner No.2, namely Bhalle Ram had moved several complaints regarding alleged incident of 21.04.2014 vide complaint No. 142 NHRC, dated 15.09.2014, 4428-P1 dated 23.09.2014, 447-PDGP dated 29.09.2014, 462-PDGP dated 06.10.2014, 500-PDGP dated 29.09.2014 and 2225-P1 dated 03.11.2014. To examine the facts and veracity of each complaint, a detailed enquiry was ordered and Virender Singh, HPS the then DSP, City Sonapat was appointed as Enquiry Officer. Virender Singh, HPS had conducted detailed enquiry and during the course of enquiry all the allegations levelled by the petitioner were found to be false. Opinion of Assistant District Attorney was sought, where the then Learned Assistant District Attorney had recommended a case FIR for allegedly using fake number plate to be registered, upon which the present FIR was registered.

5. That according to official record and enquiry report on 21.04.2014. Ajit Singh, H.P.S, the then DSP Kharkhoda, was on patrolling duty and was present near Ethnic India

Tourist Resort, Rai, G.T. Road. Sonipat, where the then, DSP, stopped the vehicle make Maruti Swift VDI, bearing registration No. HR-10V-5339, being driven by Krishan Petitioner No.1, as the vehicle was having black film on window glass. When the said officer asked about documents of the vehicle, Krishan could not produce Registration Certificate of the vehicle and his driving license. Since an offence u/s 181,190 and 192 of Motor Vehicles Act was committed, a challan was issued and the said vehicle was impounded by the then DSP Sonipat vide DDR No.28 dated 21.04.2014. Petitioner No.1 Krishan had himself paid the amount in lieu of challan and he (petitioner No.1) had appended his signatures after visiting the challan branch. When Krishan produced his Driving License thereafter, the above said vehicle was released. (It is pertinent to mention here that later on departmental action had been initiated against the police official who released the said vehicle without obtaining a copy of the Registration Certificate of the impounded car.

6. *That the enquiry further reveals that the petitioner No.1 was plying his Swift VDI car, by affixing a fake number plate bearing Registration No. HR-10V-5339, on 21.04.2014, which later on in the course of enquiry was found to be registered in the name of Rajpal s/o Partap Singh, resident of Village-Bhuwapur, District-Sonipat for a motor cycle make Bajaj Platina. On 21.04.2014 petitioners did not even know the registration no. of their car. The original Registration number of that car was HR-10V-5399, which only came in the knowledge of the petitioners on 29.04.2014. It came to the notice that the Petitioner No.1 had bought this Swift VDI car on 06.10.2013, from M/s Jagmohan Motors, located at Parkar Mall. G.T. Road, Kundli, on which temporary number HR-99-PWT-9485 was*

given. Later, some dispute arose between Krishan and the officials of Jagmohan Motors, with respect to the payment of amount of Road tax to R.T.O. The petitioner No. 1 had deposited only 3% of the R.T.O amount whereas the fee had been enhanced upto 6%. Subsequently, on 26.03.2014, a legal notice was issued by the petitioner No.1 to M/S Jagmohan Motors, for preparation of the Registration Certificate, in pursuance to which a compromise was effected between both the parties and the Registration Certificate was handed over to the petitioners, only on 29.04.2014. In this way, the petitioners came to know about the registration Number of the car on 29.04.2014 for the first time. However, the incident in question had taken place on 21.04.2014. It is thus clearly established from above chain of circumstances that Krishan was the owner of this Swift VDI car, bearing original Registration No. HR10V 5399, which he came to know only on 29.04.2014, whereas on the relevant time on 21.04.2014, he had affixed a forged number plate bearing Registration No. HR 10V 5339, on his car. This act amounted to forgery and this act of forgery was committed by Krishan in collusion with his father Bhalle Ram and later on they in collusion with each other, had made false complaints with respect to the same issue, against police authorities before higher authorities, only to save their skin from the crime committed by them: (A true translated copy of the compromise of the petitioner No. 1, Krishan with M/S Jagmohan Motors annexed as Annexure R-1 and Enquiry Report annexed as Annexure R-2).

7. *That the enquiry further revealed that the call details and tower location of Bhalle Ram and his son Krishan were obtained from Cyber Cell, which clearly showed that on 21.04.2014 at relevant time, the two petitioners were not together and their location were of different towers. The*

location of Krishan also showed that he had visited challan branch located nearby and several other places leading from P.S. Rai to Gohana Road, Sonipat. When the vehicle was challaned. Krishan even had a conversation on the mobile phones with his father i.e. Petitioner No. 2. Thus it is proved by tower location that Petitioner No.1 and Petitioner No. 2 were not together when the challan was issued and this shows that petitioner's had concocted a false story:

8. *That it has further been established that the petitioners have alleged that from 3.00 P.M. till 6.30 P.M., they were confined in the Police Station lock-up by police at P.S. Rai, Sonipat illegally. However, the call details and tower location of the mobile phones of Bhalle Ram and Krishan show that during this period, Petitioner No. 1 and Petitioner No. 2 were at different places and had conversation with each other on their mobile phones Nos. 9813902976 (Bhalle Ram) and 9813213696 (Krishan). Petitioner No.1 had visited Rai, 20th mile, G.T.Road, Shastri Colony, Sector-23 Sonipat, Gohana Road, Sonipat, Shri Nagar, Sonipat Village Ratdhana, Village Rasoi etc. and there had been numerous incoming and outgoing calls on the mobile phones of Petitioner No. 1 Krishan and Petitioner No.2 Bhale Ram during that period and during this period, the location of Bhale Ram was of Sonipat. This fact clearly shows that during the above said period, Bhale Ram and his son Krishan were not confined by the police in any way. They seem to have levelled totally false and baseless allegations against the police officials.*

9. *That the petitioner No. 2, had moved a complaint No.860 of 2014, regarding alleged occurrence of 21.04.2014 to the Hon'ble Haryana Human Rights Commission, Chandigarh, on which the Hon'ble Commission had asked the Police Department to file a reply.*

In response to that, a detailed reply was submitted to the Hon'ble Commission, and no further orders were passed by the Hon'ble Commission. Subsequently, petitioner No.-2 (Bhale Ram) himself withdrew the said complaint before the Hon'ble Commission, which was dismissed as withdrawn on 10.05.2015. (A copy of order of Haryana Human Rights Commission, Chandigarh, is hereby annexed as Annexure R-3).

10. That the petitioner No.-2 had also moved a similar complaint No. 352 of 2014, before the Hon'ble Lokayukta, Haryana, Chandigarh, where after exhaustive hearing and arguments, the Hon'ble Lokayukta had found the case of the petitioners devoid of any merits and full of concoctions. The Hon'ble Lokayukta had mentioned that it was a matter of concern that Police Official had released the vehicle of the complainant without Registration Certificate and had recommended to the competent authority to initiate stern departmental action against such erring official, if not already initiated and to punish them in accordance with Law. (A copy of Hon'ble Lokayukta, Haryana is hereby annexed as Annexure-R-4)

11. That after completion of the exhaustive investigation a charge sheet was filed in the court of Ld. Illaqa Magistrate, Sonipat on 18.11.2015. Further, an application for discharge filed under section 239 CrPC moved by petitioners was dismissed by the Judicial Magistrate Ist Class, Sonipat, by observing that there is sufficient material on record to show a prima facie case is made out against the petitioners. It is pertinent to mention at this stage that the charges were framed against the petitioners on 01.08.2017 by the Ld. Judicial Magistrate, Ist Class, Sonipat, under sections 182,193,420,468,471,201 read with 34 of IPC. Now the trial of the case is pending in the Court

of Sh. Ashok Kumar, JMIC Sonapat. So far, three prosecution witnesses have been examined and now the case is fixed for 16.11.2019 for prosecution evidence. In the matter of instant CRM-M, Hon'ble High Court, vide interim order dated 19.01.2018 has restrained the Ld. Trial Court from passing any final order in this case. (A copy of the order of framing of charges by the Ld. Trial Court is hereby annexed as Annexure R-5).

12. That with respect to the assertions and allegations made in the petition as well as in view of the facts as transpired in this case, it is clear that the complaint lodged by the Petitioner against the police officials, has been found to be false. Ideally, a separate FIR is to be registered against the complainant. It is respectfully submitted with respect to the above that the offences in the present case FIR, were found to have been committed in the course of same transaction or same simultaneous occurrence creating a common cause of action. It is pertinent to mention here that there has been a coherent connection between the alleged incident of affixing the fake or bogus number plate and making the false assertion with respect to the same by presenting the multiple frivolous complaints, based upon which treating the sequence of events to be in same transaction, no separate FIR was lodged in this case.

13. That the police authorities have acted in a very lawful manner on the basis of extant facts and available evidence in the normal course of discharge of their official duties. The Police did not act in any prejudiced manner nor any unlawful act was committed by the police officials/officers. A totally false story has been concocted by petitioners with ulterior motives and malafide intentions, which is not sustainable in any manner. On the basis of evidence collected during the course of enquiry/investigation, the

allegations of petitioners stands shattered being untruthful. The falsity of the allegations of petitioners has been exposed with the help of cyber cell evidence. In view of the entire case records along with the enquiry report, it can be said with certainty that on the day of occurrence i.e. 21.04.2014, the petitioners were not having the Registration Certificate of their Swift VDI car and they were also not aware of the Registration number of the car as it was only on 29.04.2014, Registration Certificate was handed over/given to the petitioner No. 1, by the officials of the Jagmohan Motors, Sonipat. It is clearly established from the record that on 21.04.2014, the petitioner No. 1 was plying his vehicle by affixing a fake/bogus number plate Registration No. HR-10-V-5339.”

Learned counsel for the petitioners has submitted that the petitioner is sought to be falsely implicated as he had lodged a complaint against the police officials. This fact is denied by learned counsel appearing on behalf of the State.

In the considered view of this Court, the disputed questions of fact are required to be adjudicated upon. The aforesaid disputed questions of fact can only be adjudicated upon on appreciation of evidence if any led by the parties.

In view thereof, the petitioners are relegated to the remedy before the trial Court.

Disposed of, accordingly.

17.12.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**