

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35000 of 2015 (O&M)

Date of Decision: 30.07.2019

Abimanyu Vinayak and others

...Petitioners

VERSUS

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: None.

SURINDER GUPTA, J.

This is petition filed by petitioners, Abimanyu Vinayak and others, seeking direction to respondents no. 1 to 4 to take action against respondents no. 5 to 7 and to protect their life and liberty.

2. Petitioner no. 1-Abimanyu Vinayak is an advocate by profession while petitioner no. 2 is his wife and petitioners no. 3 and 4 are his parents. It has been alleged that respondent no. 5-Gauri Shankar @ Kaku is a recovery and repossession agent working for a private bank and financiers. Mother of petitioner no. 1 owns a plot at Shiva Ji Park, Yamunanagar. Respondent no. 5 at the behest of his brother, who wanted to grab her said plot, started harassing and threatening petitioners. A civil suit was filed wherein respondent no. 5 and his companions were restrained from interfering in the possession of petitioner no. 3 over the plot in question. The local police is helping respondent no. 5 and his companions in their illegal activities.

3. Petitioner no. 2-Rachna Vinayak, wife of petitioner no. 1, was in job in Delhi Public School, Yamunanagar as a teacher. She received threatening calls on her mobile phone and the matter was reported to the police but no action was taken as a result of which she had to leave her job.

On 10.06.2013, brother of respondent no. 5 abused and threatened petitioners no. 1 and 2, who had gone to Easy Day Super Market, Gobindpuri Road, Yamunanagar. He also stopped their car outside IDBI Bank and the matter was reported to the police but no action was taken against brother of respondent no. 5. Again on 18.08.2013, respondent no. 5 tried to hit car of petitioner no. 1 and blocked his way. Similar incident happened on 26.08.2013. Repeated representations were made to police. Later on FIR under Section 66A of the Information Technology Act was registered against petitioner no.1 on the allegation that HDFC Bank had cancelled agency of respondent no. 5 and his brother on his complaint. Thereafter, repeated threats were given to petitioners and they had to file petition (CRM-M-24449-2014) in this Court seeking protection to their life and liberty, which was disposed of on 22.07.2014 giving liberty to petitioners to move complaint to Superintendent of Police, Yamunanagar as and when they apprehend danger to their life and liberty. Even thereafter several incidents of giving threats to them by respondent no. 5 took place but the police did not take any action, hence this petition.

4. In reply filed on behalf of State and respondents no. 2 to 4, it has been averred that after receiving notice in this petition, ASI Jile Singh was deputed to look into the matter, who approached petitioners but they did not cooperate and refused to get their statements recorded. He then approached respondents no. 5 to 7. Respondent no. 7 got his statement recorded about their harassment by petitioners, who have been giving complaints against them resulting in registration no. FIR No. 680 dated 21.12.2013 under Section 66A of the Information Technology Act against petitioner no. 1. Even thereafter petitioners have made several other complaints against

that 17 FIRs have been registered against petitioner no. 4-Gulshan Vinayak at different police stations. Petitioners are in habit of making false and frivolous complaints. Private respondents have not posed any danger to life and liberty of petitioners. Regarding complaint filed by petitioners, it has been mentioned that same were enquired and allegations levelled by petitioners were found to be false and baseless.

5. Learned counsel for petitioners submits that petitioner no. 1 is an advocate by profession. Earlier he was living in Yamunanagar and due to inconvenient atmosphere created by private respondents, he has shifted to Chandigarh. He is facing constant threats from private respondents, who are recovery agents of banks and are out to grab property of petitioners. Despite various representations no protection to life and liberty of petitioners has been provided by the police.

6. Learned State counsel has argued that the police has already looked into all the complaints filed by petitioners from time to time, which were found to be false. Petitioners have been making frequent complaints against private respondents and various other persons. In the year 2016, they made 45 complaints and in the year 2017, 67 complaints were made, thereby making the police department busy to look into those complaints, which were found to be false. Various complaints were made on C.M. Window. Keeping in view the conduct of petitioners they have been blocked from making any complaint on C.M. Window. There are various FIRs against petitioner no. 4. Against petitioner no. 1 also one FIR was registered but he did not allow the trial to proceed. Now under the orders of this Court, trial of the cases registered against petitioner no. 1 and private respondents have been transferred to the Court of Chief Judicial Magistrate, Kurukshetra. The

allowed, as such, there was no occasion of any threat. Even otherwise police has always provided required protection as and when so demanded by petitioners, who have twisted facts to show danger to their life and liberty by concealing fact that petitioner no. 4 is facing various FIRs while petitioner no.1 is also accused in one case. In the criminal case registered against petitioner no. 1, he did not allow the charge to be framed and it was under the orders of this Court, the trial Court had to proceed further to frame the charge. Even after expiry of a period of six years, trial of that case has not reached any logical conclusion and now this Court while transferring the case to Kurukshetra has directed the Chief Judicial Magistrate to conclude the trial within nine months.

7. From the submissions and facts as stated above, it appears that there is a dispute between petitioners and private respondents. FIR under Section 66A of the Information Technology Act was registered against petitioner no. 1 while petitioner no. 4 is stated to be facing investigation/trial in number of FIRs registered against him. Earlier also petitioners filed petition (CRM-M-24449-2014), which was disposed of vide order dated 22.07.2014 declining request of petitioner to give direction to police to register FIR on his complaint. That petition was disposed of with liberty to petitioners to avail the remedy under Section 156 Cr.P.C. and in the event of apprehending any danger to their life and liberty, they were also given liberty to move a complaint to Superintendent of Police, Yamunanagar.

8. The question, which arises for consideration, is as to whether in such type of cases direction should be issued to police to take action against respondents no. 5 to 7 on the complaint of petitioners? Petitioner no. 1 is an advocate by profession and knows the law well. His complaints were found

blocking him from filing any complaint on C.M. Window in view of the fact that 45 complaints in the year 2016 and 67 complaints in the year 2017 were moved by him against various persons. Private respondents are residents of Yamunanagar and petitioners are now living in Chandigarh. The trial of cases registered at the behest of petitioners/private respondents have been shifted to Kurukshetra, where petitioner no. 1 will now regularly appear on each and every date and cooperate with trial Court to expedite the trial.

9. Keeping in view above facts and circumstances, I find no merit in this petition so as to give any direction to respondents no. 1 to 4 to take action against respondents no. 5 to 7.

10. Dismissed.

11. So far as question of protection of life and liberty to petitioners is concerned, they may move application before Senior Superintendent of Police, Chandigarh as and when they apprehend danger to their life and liberty. On receipt of such application, Senior Superintendent of Police, Chandigarh will verify the same and take appropriate action in accordance with law. Keeping in view facts of the case, I am constrained to record that in the event of any application filed by petitioners being found to be false, the police authorities will not hesitate in proceedings against petitioner(s) in accordance with law.

July 30, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No