

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39243-2018(O&M)
Date of decision: 02.12. 2019

Jaswinder Singh and another

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.P.S.Ahluwalia, Advocate for the petitioners
Mr. S.P.S.Tinna, Addl. AG, Punjab
Mr.Anmol Rattan Sidhu, Sr. Advocate with
Mr. Shiv Kumar Sharma, Advocate for respondent No.5

ANIL KSHETARPAL, J. (ORAL)

Present petition has been filed under Section 482 Cr.P.C for transfer of investigation of FIR No. 87 dated 8.8.2018 registered under Section 420 IPC at Police Station Nurpur Bedi, District Rupnagar.

Keeping in view the facts of the case, Director, Bureau of Investigation was requested on 25.9.2019 to examine the allegations made in the petition viz-a-viz police diary and file status report. Pursuant to the aforesaid direction, Director, Bureau of Investigation, Punjab submitted a report indicting the police officials who had earlier investigated the case. Noticing that fact on 24.10.2019, following order was passed:-

On 07.09.2019, following order was passed by this Court:-

“Learned counsel submits that ever-since the death of father of petitioner No.1, respondent No.4-Kuldip Sharma has been conspiring to grab the land owned by petitioner No.2 regarding which an FIR was also lodged

and charges were framed. Learned counsel submits that Kuldip Sharma in order to pressurize the petitioners has been getting false complaints lodged against them through his aides Jograj Singh and Amarjeet, which were inquired into by Officers of the rank of D.S.P. (Investigation) and S.P. (Headquarters) and were found to be false.

Learned counsel has submitted that however the aforesaid persons managed to get a third inquiry marked and an FIR has been registered against the petitioners by suppressing material facts and despite the fact that two inquiries had earlier been held, in which, allegations had been found false. Learned counsel submits that after registration of the aforesaid FIR in the month of August 2018, the police is conducting investigation in a hurried manner and is intending to present the challan shortly so as to pressurize the petitioners to effect compromise in the FIR lodged at the instance of mother of petitioner No.2.

Notice of motion to the respondents for 18.09.2018.

In the meanwhile, Senior Superintendent of Police, Rupnagar is directed to ensure that the matter is fairly investigated and challan is not filed hurriedly. Status report be also filed on the date fixed.

To be shown in the urgent list.”

Keeping in view the serious allegations made against

respondent Nos. 4 and 5, police officials, the Director, Bureau of Investigation, Punjab was requested to examine the allegations made in the petition viz-a-viz, police diary and file the status report.

Status report, as directed, has been filed. After examining the police diary and case file, the Director, Bureau of Investigation, has found as under:-

“That upon examination of the entire matter, the deponent has noticed the following lapses:-

- (i) Amroj Singh, PPS/ DSP/City-I, SAS Nagar, conducted a perfunctory enquiry in the case. Amroj Singh, PPS, DSP/City-I, SAS Nagar for reasons best known to him did not consider it appropriate to look into the earlier enquiries conducted by DSP/ Investigation, Roopnagar and SP/Headquarters, Roopnagar, despite the fact that during the course of inquiry, accused Jaswinder Singh and Pritpal Singh had supplied copies of these enquiry reports to DSP Amroj Singh, PPS. The DSP did not examine the grounds on which the earlier complaints, given by Jograj Singh to SSP/Roopnagar, were not found actionable. He did not analyse whether the fresh (third) complaint given by Jograj Singh, this time to IGP/Roopnagar Range, Roopnagar, contained any fresh material, or whether it was merely a reiteration of earlier allegations, which had already been looked into twice. The DSP, in his enquiry, failed to bring out any independent corroboration to the statement of Jograj Singh, which could, even prima facie, have indicated the ingredients of the offence of cheating.*
- (ii) There is no evidence available on record except oral statements to show actual transfer of money or payments by complainant Jograj Singh. In the report of enquiry of Amroj Singh, PPS, DSP/City-I, SAS Nagar, it is mentioned that complainant Jograj Singh took an amount of Rs.3 lac in cash from Balwinder Singh, who withdrew it from his bank account. Thereafter the complainant had again obtained an amount of Rs.6 lac from Balwinder Singh for payment to the accused. Another amount of Rs.2 lac was paid by*

complainant Jograj Singh after selling his "Poplar" trees. All the payments were allegedly made in cash to the accused. Whereas, a perusal of statement got recorded by complainant Jograj Singh and attested by DSP Amroj Singh, PPS, shows that complainant Jograj Singh claims to have obtained Rs. 3 lac in cash from Gurcharan Singh son of Karam Singh, another amount of Rs.3 lac in cash from Malwinder Singh and he arranged an amount of Rs.5 lac on his own, out of which he got Rs.3 lac on selling of his trees. Further, there is no evidence on record about sale of 'Poplar' trees by complainant Jograj Singh to buttress his claim that he had obtained money from said sale of 'Poplar' trees. Despite the abovesaid discrepancies, Amroj Singh, PPS/DSP/City-I, SAS Nagar recommended registration of criminal case.

(iii) A perusal of police file indicates that Investigating Officer/ASI Jasmer Singh has conducted the investigation in a thoroughly unprofessional manner. No effort was made by him to bring evidence, if any, on record to support the allegations. In fact, he did not take the investigation beyond the facts already brought out during the enquiry of Amroj Singh, PPS, DSP. Investigating Officer/ ASI Jasmer Singh also failed to bring on record any evidence to establish the basic ingredients of the offence of cheating. Further, the Investigating Officer added offences under Section 201 and 506 of IPC without any corresponding entry in Case Diary or Daily Diary Register (DDR).

(iv) During checking of Challan by concerned A.P.P. On 31.8.2018, one of the objections raised was that there is no witness to prove the record of concerned bank during trial of the case. A perusal of file shows that Investigating Officer recorded statements of Kamal Bajaj, Bank Manager, HDFC Bank, near Bus Stand, Kiratpur Sahib and Amandeep Singh, Branch Manager, Kotak Mahindra Bank, Roopnagar. These statements recorded under Section 161 of Cr.P.C. are dated 29.8.2018, whereas the A.P.P. Had raised objection regarding this in his notes on 31.8.2018. Evidently, the statements of both the Bank Managers were ante-dated by the Investigating Officer/ASI Jasmer Singh. Further, there is no corresponding case Diary recorded on 29.8.2018 as the last Case Diary No.5 is recorded on 22.8.2018.

(v) In the final checking of Challan on 4.9.2018,

the DA has clearly observed that it is a very weak case. Evidently, there is no evidence available on record to connect accused with commission of any crime. Entire chain of link evidence is missing in the present case. That upon examination of the matter, it has been found that serious lapses have been committed by DSP Amroj Singh, PPS, who conducted the third enquiry in the matter and recommended registration of a criminal case contrary to earlier two enquiries conducted by DSP/Investigation, Roopnagar and SP/Headquarters, Roopnagar. Serious lapses were also committed by Investigating Officer/ASI Jasmer Singh, who investigated the present case. The deponent recommends that Show Cause Notices be issued to both DSP Amroj Singh, PPS and ASI Jasmer Singh to explain their conduct in the present case, and further appropriate action be taken as per law and procedure.”

This Court places on record its appreciation to the effort made by the Director, Bureau of Investigation.

Keeping in view the conclusion drawn by the Director, Bureau of Investigation, Punjab, it is considered appropriate to direct the Home Secretary, Punjab, to examine the entire case file and file status report, and also suggest future steps to be taken in the facts of the case.

Adjourned to 19.11.2019.

Learned counsel for the State has been requested to inform Home Secretary, Punjab in this regard.

In the meantime, further proceedings before the learned trial court shall remain stayed.”

Taking note thereof, Home Secretary was requested to take a call on future course of action. Additional Chief Secretary, In-charge of

under:-

“5. That similarly, Senior Superintendent of Police, Rupnagar, had issued show cause notice to ASI Jasmer Singh, No. 799/R, the then Incharge Police Post Kalwan, Police Station, Noorpur Bedi. Reply to the notice submitted by ASI Jasmer Singh was not found to be satisfactory, therefore, vide order No.74835-41/AC-4, dated 15.11.2019 of the office SSP/Rupnagar, Departmental Enquiry has been initiated against the erring official ASI Jasmer Singh, No. 799/R and has been entrusted to Superintendent of Police, Detective, Rupnagar.

6. That it is humbly submitted that the deponent has purused the affidavit of Director, Bureau of Investigation, Punjab, filed before this Hon'ble Court after detailed examination of the case file. In furtherance to the contents of said affidavit, the office of Director, Bureau of Investigation, Punjab has issued order No. 11001/CR-LA-III, dated 26.11.2019, whereby the Inspector General of Police, Rupnagar Range, Rupnagar has been directed to get the case further investigated from an SIT under SSP, Rupnagar and take necessary action at the earliest. A copy of the said order dated 26.11.2019 is annexed herewith and marked as Annexure R-1.”

Keeping in view the stand taken by Additional Chief Secretary,

the present petition is disposed of by directing the Special Investigation

Team which has been constituted by the Director General of Police, Punjab to conclude its investigation within three months after informing the Court under Section 173 (8) Cr.P.C.

Learned State counsel on instructions from AIG, Sarabjit Singh, Bureau of Investigation, Punjab has submitted that necessary application will also be filed before the Trial Court for putting on hold further proceedings in the Trial Court till the conclusion of investigations by the Special Investigation Team.

Disposed of.

02.12. 2019	(ANIL KSHETARPAL)
rekha	JUDGE
Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No