

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

CWP-10944-2019

Date of decision: 29.4.2019

Sonu Walia

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.Karan Singh, Advocate for the petitioner

JITENDRA CHAUHAN, J.

The present writ petition under Articles 226/227 of the Constitution of India has been filed for quashing the order dated 1.4.2019 (Annexure P-4) vide which respondent No.5 – Subhash Chand was reinstated to the post of Sarpanch during pending enquiry.

Learned counsel for the petitioner submits that an FIR No.295 dated 25.10.2018 was registered against respondent No.5, who is the Sarpanch of the village, under Sections 342, 376D, 506 IPC at Police Station Paonta Sahib, District Sirmour and thereafter he was arrested. Learned counsel further asserts that vide order dated 30.1.2019 (Annexure P-2) respondent No. 2- Deputy Commissioner, had ordered to suspend the service of respondent No.5 from the post of Sarpanch and further directed that he will hand over the record / moveable and immovable property in his possession that may be given to the panch who is in majority. Thereafter

Block Development and Panchayat Officer, Partap Nagar (Yamuna Nagar)

had submitted his report dated 18.2.2019 (Annexure P-3), wherein it has been mentioned that in selection of Panch with majority, Bahoti Devi, Panch is selected with majority. Despite that respondent No.2 vide order dated 1.4.2019 (Annexure P-4) has reinstated respondent No.5 to the post of Sarpanch.

Heard.

Admittedly, FIR No.295 dated 25.10.2018 is pending against respondent No.5, wherein the trial is in progress. Learned Deputy Commissioner, Yamuna Nagar in his order dated 1.4.2019 (Annexure P-4) has specifically mentioned that from the record it is clear that the complainant is in habit of black mailing the people by making false complaints. Respondent No.5 has been allowed bail by the Court and on the basis of the report of State Forensic Laboratory, affidavit of Sakina, friend of complainant Billo, copy of the compromise dated 12.11.2018, respondent No.5 has been ordered to be reinstated. The trial is going on in the FIR case. Charges are yet to be proved. It is settled position of law that a person is presumed to be innocent when his guilt is proved. The Court feels that the reinstatement of respondent No.5 pending enquiry, is perfectly legal and valid.

In view of the above, the present petition being devoid of merit is dismissed.

29.4.2019

gsv

[JITENDRA CHAUHAN]
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No