

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

Civil Writ Petition No.16416 of 2007 (O&M)
Date of Decision: January 11th, 2019

World Human Rights Protection Council, Chandigarh

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Ranjan Lakhanpal and Ms. Shalini Verma, Advocates
for the petitioner.

Mr. Suveer Sheokand, Additional Advocate General, Punjab.

Mr. Pawan Girdhar, Advocate
for respondent No.7.

Mr. Deepinder Singh Brar, Advocate
for respondents No.8, 9, 11 and 15.

Mr. Gurinder Singh, Advocate
for respondents No.10, 12 to 14.

AUGUSTINE GEORGE MASIH, J.

This Public Interest Litigation is based upon a newspaper report, wherein four persons namely late Shri Gurjant Singh son of Jangir Singh, his wife Jasvir Kaur and two daughters Beant Kaur and Veerpal Kaur have died because of burn injuries received by them, when they set themselves ablaze on arrival of the police party at their house in Village Behman Jassa Singh Wala, Police Station Talwandi Sabo, Bathinda, to arrest them. The primary allegation is of police terror, harassment and use of excessive force leading to the resort to this extreme step by these persons of self-immolation which is the result of the highhandedness of the Punjab Police and efforts were being made to sweep the whole incident under the carpet because of involvement of the officials of the police force.

2. Upon notice being issued, inquiry report, as conducted into the incident by the Superintendent of Police (Headquarters), Fatehgarh Sahib, has been filed in Court, suggesting it to be an incident of suicide without any provocation on the part of the police party, which had approached their house with a view to apprehend Gurjant Singh and his daughter Veerpal Kaur, who were declared as proclaimed offenders in FIR No.109 of 28.08.2005 registered under Section 307 read with Section 34 IPC and Section 25 of the Arms Act at Police Station Talwandi Sabo.

3. On the basis of the submissions made by the parties and keeping in view the pleadings, this Court vide order dated 06.07.2009, directed the then Sessions Judge, Bathinda, to hold an inquiry into the circumstances leading to the death of late Shri Gurjant Singh and members of his family.

4. Pursuant to the order of this Court, report dated 21.11.2009 was submitted by the then District and Sessions Judge, Bathinda. Copies of which were supplied to the counsel for the State as well as the petitioner along with the documents accompanying this report. Parties were directed to file their response to the said report, which was submitted by the State on 13.01.2011.

5. In the meanwhile, an application was preferred by the three surviving daughters of deceased Gurjant Singh namely Hardeep Kaur, Rampal Kaur and Sukhpal Kaur for their impleadment as respondents in the writ petition, which was allowed by this Court on 13.01.2011 and they were impleaded as respondents 4 to 6 respectively.

6. Counsel for the parties were heard on various dates, judgment

was reserved and thereafter an order dated 20.03.2012 was passed, whereby this Court observed that as per the report dated 21.11.2009 of the then learned District and Sessions Judge, Bathinda, certain offences appeared to have been committed by nine police officials namely Inspector Mohinder Kumar Ghai, the then SHO, Police Station Talwandi Sabo, ASI Amritpal Singh, ASI Gurjant Singh, SPO Kaka Singh, HC Mander Singh, HC Surjit Singh, HC Major Singh, PHG Amrik Singh and HC Mohinder Singh as pointed out therein, and in case of acceptance of the said report, these persons were likely to be adversely effected by the order and, therefore, opportunity of being heard was required to be given to them so that there is no violation of principles of natural justice. These police officials were impleaded as respondents 7 to 15 and notices were issued to these respondents. Copy of the report along with documents attached as also the complete pleadings in the case was ordered to be sent to these respondents along with the notices.

7. Replies/responses have been filed by the parties including these added respondents.

8. Before proceeding further, we need to look at the inquiry report dated 21.11.2009, as has been submitted by the then learned District and Sessions Judge, Bathinda. According to the conclusions on the basis of the evidence collected during inquiry, Gurjant Singh and his daughter Veerpal Kaur were harassed on account of registration of FIR No.109 of 2005. The facts were not verified by the police, instead fake entries were made with regard to the repeated visits to arrest them by the police, whereas they had never visited the house of Gurjant Singh to arrest

him and his daughter Veerpal Kaur leading to they being declared as proclaimed offenders. The raiding party is stated to be headed by ASI Amritpal Singh and Inspector Mohinder Kumar Ghai, the then SHO, Police Station Talwandi Sabo-respondents 8 and 7 respectively. They had scaled the boundary wall by climbing the stairs of Sukhdev Singh Fauji and disconnected the electricity supply to the house of Gurjant Singh. On entering the house, use of force was resorted to on Gurjant Singh, as a result of which the entire family as well as he himself in order to scare away the police party, put some kerosene on themselves and probably lit the matchstick but one of the victims caught fire. In an effort to save each other, they all caught fire resulting in high flames because of fire, which was witnessed by neighbours. The victims cried for help but the police party instead of putting off the fire and performing their duty, ran away from the spot. Neighbours and others helped to put off the fire resulting in burn injuries to the victims. It was also concluded that evidence was fabricated at the spot by planting four containers of kerosene and one container of petrol to depict excessive fuel with them for self-immolation as also to burn the police party alive, whereas only one container is proved to be available in the house of Gurjant Singh. There is passing reference with regard to respondent No.7 having misbehaved with Rampal Kaur and it has further been stated that the visit by respondent No.7 to the house of Assistant District Attorney, Talwandi Sabo, is an afterthought. Thus, certain offences were found to have been committed by the police officials.

9. Respondents have filed their reply denying and disputing the findings in the inquiry report. The primary stand of the police officials is

that Gurjant Singh and his family members, in order to resist their arrest and to scare away the police party, poured kerosene on themselves and have immolated themselves. They have denied that they have ever harassed or humiliated anyone and they have never compelled anyone to commit suicide, rather two of the deceased namely Gurjant Singh and Veerpal Kaur were proclaimed offenders and the police party had gone to perform their official duties.

10. Respondent No.7 in his reply has asserted that the Senior Superintendent of Police, Bathinda, had filed a detailed affidavit dated 06.01.2011 as an additional affidavit disagreeing with the findings returned in the inquiry report on the ground that it is based upon presumptions and assumptions and contrary to the statement of the witnesses and the material available on record. The inquiry dated 04.09.2008 conducted by the Superintendent of Police (Headquarters), Fatehgarh Sahib, on the direction of the Deputy Inspector General of Police, Patiala Range, Patiala and the inquiry of the District Magistrate, Mansa, have not been taken into consideration at all. He asserts that at the time when the incident had taken place, he was not present there as he was attending the farewell party being hosted for S.I. Malkiat Singh on his retirement at Jeet Palace, Bathinda. He remained present there till 7:45 PM and then went to the house of S.I. Malkiat Singh to drop him and further proceeded to the house of Assistant District Attorney, Talwandi Sabo at Bathinda, in connection with the checking of challan in FIR No.45 dated 29.03.2007 and FIR No.33 dated 23.02.2007. He remained there till 9:15 PM. ASI Amritpal Singh-respondent No.8 was deputed by

Senior Superintendent of Police, Bathinda, to arrest Gurjant Singh and his daughter Veerpal Kaur, who on reaching Police Station Talwandi Sabo, had called him on his mobile phone and asked for providing him a police party including lady police officials and a vehicle to conduct the raid in Village Behman Jassa Singh Wala. Necessary instructions were given by him to the MHC and ASI Gurjant Singh-respondent No.9. Police personnel were accordingly provided. He left Talwandi Sabo at 9:15 PM when he came to know about the occurrence. He went to the Police Station first and then left for the village with additional police force and reached the occurrence site at 10:30 PM. He has denied the allegations of he having misbehaved with Rampal Kaur and any other family member present at the spot.

11. Having considered the submissions made by the counsel for the parties and having gone through the pleadings with their assistance including the inquiry report dated 21.11.2009 submitted by the then learned District and Sessions Judge, Bathinda, there is no dispute, rather admitted that an incident had taken place in the house of Gurjant Singh, where four persons have lost their lives.

12. Replies which have been filed by the police officials i.e. respondents 7 to 15 are filled with loopholes and there are many questions, which crave for answers. Reference in this regard can be made to the stand of respondent No.7, who was the SHO of the Police Station, in whose jurisdiction such a serious incident having taken place, came to know of the same after 9:15 PM, when even as per the version of the police authorities, the raiding party reached the house of Gurjant Singh at about 7:30 PM on

29.09.2007 and the occurrence took place before 8:00 PM i.e. between 7:30 PM to 8:00 PM. The stand of respondent No.7 is difficult to believe what to say accept that despite such a tragic incident having taken place, he did not come to know of the same and even if he did come to know of the same, he stayed back there till 9:15 PM. The call details of this respondent and other police officials including location are essentially to be gone into so that the truth is brought forth.

13. This is just one instance, which we have mentioned in the order as an example. We refrain ourselves to go into the details of the pleadings and comment further on them in the light of the order, we propose to pass in the present case lest prejudice is caused to any of the parties.

14. The incident which took place on 29.02.2007 in house of deceased Gurjant Singh, where four people lost their lives, is admitted. However, there are two different versions as to how it happened. One is that of the police and the other is that of daughters/sisters of the victims and neighbours. There are eyewitnesses, who have given their statements, to the police and during the inquiry, there is documentary, medical, forensic and circumstantial evidence which has to be further looked into as some more evidence has come during the inquiry which was not available when the Superintendent of Police (Headquarters), Fatehgarh Sahib, had inquired into the matter. All doubts have to be cleared so that the truth prevails.

15. In the light of the above, we are of the view that the report dated 21.11.2009 as submitted by the Inquiry Officer as appointed by this Court vide order dated 06.07.2009 deserves to be *prima facie* accepted to be taken as a stepping stone for further investigation to be carried out to find

out the truth of the matter. Since FIR No.137 of dated 29.09.2007 stands registered under Sections 307, 353, 509, 186, 511 and 149 of the Indian Penal Code at Police Station Talwandi Sabo about this incident, the version recorded therein requires to be deeply probed into and further investigated properly in the light of the report dated 21.11.2009, referred to above, by a Special Investigation Team headed by a senior IPS Officer to be constituted by the Director General of Police, Punjab, within a period of four weeks from the date of receipt of copy of this order.

16. Let the report under Section 173 Cr.P.C. be prepared and submitted in the competent Court at the earliest but not beyond six months.

(MAHESH GROVER)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

January 11th, 2019
Puneet

Whether speaking/reasoned: Yes

Whether Reportable: Yes