

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-50173-2018

Date of Decision: 09.09.2019

Mukesh Kumar

...Petitioner

Versus

State of Haryana and another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mandeep Nehra, Advocate for the petitioner.
Mr. Manish Bansal, DAG, Haryana

ANIL KSHETARPAL, J.

Present petition has been filed taking exception to the challan (final report under Section 173 Code of Criminal Procedure) submitted by the prosecution in the Court.

Basic allegation against the petitioner is that annoyed by the visit of bank officials to his residence concerning a departmental enquiry against his wife, he went to the bank and manhandled bank staff, tried to snatch rifle from the guard and beat certain bank officials.

FIR in this regard was registered on 22.3.2018 under Section 186, 332, 353 and 506 IPC at Police Station Farakpur, District Yamunanagar. Initial investigation was carried out by ASI Balwinder Singh, who arrested the petitioner but learned Area Magistrate granted bail on 25.03.2018. Petitioner moved a complaint to the Superintendent of Police, Yamunanagar on 28.3.2018, alleging that he has been falsely implicated. The aforesaid complaint was marked to the Deputy Superintendent of Police (Headquarters), who after carrying out an

investigation, found that the allegations levelled in the FIR were not correct. Report in this regard by the Deputy Superintendent of Police was submitted, recommending cancellation of the case. An application before the learned trial court to discharge the accused was also moved. Cancellation report was prepared on 4.5.2018 by the then Station House Officer Inspector Subhash.

It is the case of the petitioner that on his complaint investigating officer was booked under the Prevention of Corruption Act, 1988 on 21.05.2018 and thereafter police officials of the district became annoyed and with a view to victimise the petitioner, orders were obtained from the Superintendent of Police, Yamunanagar to get the matter reinvestigated from Special Investigating Team under the supervision of the Deputy Superintendent of Police. This is how the challan has been filed, which has been challenged by the petitioner by way of present petition.

Although, learned counsel for the petitioner has submitted that once the application for discharge was filed before the trial Court, therefore, the police/investigating agency had no jurisdiction to further investigate the case without permission of the Court, however, this Court is of the opinion that there is no necessity to go into the aforesaid issue.

On the direction of this Court, Superintendent of Police, Yamunanagar, has filed an affidavit, wherein it has been alleged that the Deputy Superintendent of Police, while holding enquiry and submitting a report that no case is made out against the petitioner, had not examined the CCTV footage of the bank.

This Court has gone through the report (Annexure P-2) submitted by the Deputy Superintendent of Police. He has clearly recorded that CCTV footage has been examined and it has been found that the

petitioner had not snatched the gun of the guard of the bank. Petitioner had also not given any beating to bank officers/employees. He also did not snatch the documents. He was also not found to have created any hindrance or given any threat to the bank officials to kill.

Keeping in view the fact that at the instance of the petitioner, investigating officer was involved in a case under the Prevention of Corruption Act, 1988, whereupon the investigating agency had taken a somersault from its original stand, this Court is of the opinion that ends of justice would be met if the Inspector General of Police, Ambala Division, Ambala, is directed to constitute a Special Investigating Team under the supervision of an Officer superior than the Superintendent of Police, Yamunanagar, to further investigate the matter. The members of the Special Investigating Team should not belong to District Yamunanagar nor they have ever remained posted there. The Special Investigating Team would conclude its enquiry/investigation within two months from the date of receipt of certified copy of this order. This order has been passed in the interest of justice and to restore faith of the citizen in the action of prosecuting agency.

Disposed of.

09.09.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No