

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : November 02, 2019

1. Criminal Misc. No. M-31386 of 2019 (O&M)

Sawinder Singh

....Petitioner

versus

State of Punjab and others

....Respondents

2. Criminal Misc. No. M-36823 of 2019 (O&M)

Jarnail Singh and another

....Petitioners

versus

State of Punjab and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Ms Satwant Mehta, Advocate, for petitioner in
CRM-M-31386-2019

Mr. Gursimran Singh, Advocate, for petitioners in
CRM-M-36823-2019

Mr. Pawan Sharda, Sr. DAG Punjab for the State/
respondents with ASI Balbir Singh, PS Sadar, Tarn Taran

Fateh Deep Singh, J. (Oral)

Both the aforesaid petitions have arisen out of one and
the same incident and are being taken up together for disposal.

In CRM-M-31386-2019, petitioner-complainant Sawinder
Singh has invoked the jurisdiction of this Court by the aid of Section

482 Cr.P.C. seeking fair and impartial investigations in case bearing FIR No. 104 dated 25.6.2019 under Sections 341, 354, 323, 34 IPC, Sections 376-D, 506, 324, 382, 148, 149 IPC added vide Rapat No. 37 dated 26.6.2019, registered at Police Station Sadar Tarn Taran as well as for the arrest of the accused persons.

In CRM-M-36823-2019, petitioners Jarnail Singh and Sukhwinder Kaur are seeking directions for registration of cross-version in the aforesaid FIR.

The primary grouse of petitioner-Sawinder Singh is that the accused persons are influential persons and have managed to evade their arrest as well as police action on account of their political connections and the police has failed to properly investigate the case and hence the prayer.

The State in its reply by way of status report in the form of affidavit of Sh. Ravinderpal Singh, Deputy Superintendent of Police, Sub Division Goindwal Sahib has taken a categorical stand that on the basis of written complaint of complainant Sawinder Singh, the police had registered an FIR and during the course of inquiry some of the accused were found to be not present at the time of the occurrence and that allegations of rape and snatching were found to be false and in fact the parties were litigating over a

dispute of land. It is submitted that a SIT was constituted comprising of three members who have found part of the allegations to be false and motivated and the victim has refused to make her statement and have termed the prayer to be not maintainable.

Upon hearing learned counsel for the respective parties and perusal of the records, it is well illustrative from the police records that the parties are litigating over land dispute and it is on the request of the parties, a SIT was constituted by the Inspector General of Police, Border Zone, Amritsar and who after adducing and evaluating the stands of the two sides and evidence had added offences under Sections 354,341,323,324,506,148,149 IPC and deleted offences under Sections 376-D,382,363 IPC as part of the story was found to be concocted. Report under Section 173 Cr.P.C. has since been prepared and finalized in the light of the arguments that have come about from the side of the State. To the specific query of the Court, Ms. Satwant Mehta, counsel for petitioner Sawinder Singh could not pin point any such remiss which could necessitate to hold that the investigations are biased and unfair. Further-more the petitioner would be at liberty to lead appropriate evidence at the trial for which the court has unfettered powers to act on the basis of the evidence before it. Rather what the Court

observes from the conduct of the parties is that to settle their dispute over the land, claims and counter-claims of criminal allegations have come about and the court needs to keep away from such traps which have been laid for a motivated cause by way of exercise of the process of the Court. Provisions of Sections 482 Cr.P.C. are to be sparingly used in rare cases to undo injustice and come to the aid of a party who has been denied his legitimate right to have recourse to law and cannot be allowed to be flouted to make sinister gains. In the light of what has come about and the fact that it is the prerogative of the Investigating Agency to look into if custody and arrest of a particular accused is necessitated or not and court needs to be weary of issuing any such directions for arrest of a person.

As is reflected from the reply of the State filed in CRM-M-36823-2019, upon receipt of MLR of injured Sukhwinder Kaur wife of Jarnail Singh and that of Jarnail Singh, relevant fact has been recorded by the police that on account of land dispute between the parties, this occurrence has come about and that on account of registration of the FIR against the accused from the side of petitioners Jarnail Singh, none of the victims is available as they have gone underground and hidden them and which fact is duly supported from DDR No. 32 dated 4.9.2019 got recorded by the

police. Mr. Gursimran Singh, counsel for petitioner Jarnail Singh could not convince this Court how there has been default on the part of the Investigating Officer in not carrying on his duties and investigations in accordance with law which is only when the victim of crime or anyone in the knowledge of the same makes a statement, the police would be in a position to lodge a case against the accused of that crime. Thus, it would be too preposterous to accept the stand of petitioner's counsel as is sought to be averred in his petition. Further-more the stand of the petitioner Jarnail Singh is also lacking on merits as it is the fault of the victims to have reported the fact and made statement to the Investigating Agency of their grievance which has never been come up. Since the investigations are under way, they are at liberty to appear before the Investigating Officer to put forth their stand.

In view of the aforesaid, finding no merit, both the petitions stand dismissed.

November 02, 2019

'tiwana'

**(Fateh Deep Singh)
Judge**

*Whether speaking/reasoned ?
Whether Reportable ?*

*Yes/No
Yes/No*