

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47877-2018 (O&M)

Date of decision: 13.02.2020

Surinder Singh

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. G.K. Mann, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. G.S. Bal, Sr. Advocate with
Mr. Ashish Mehlawat, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of entry made by the police, vide which name of the petitioner has been shown as Surinder Singh @ Jaswinder Singh, without there being any order from the competent Court of law and without affording an opportunity of hearing to the petitioner as well as for quashing of the report dated 14.06.2012 submitted in FIR No.14 dated 12.03.2002 under Sections 324, 323, 34 IPC, Police Station Rangar Nangal, Police District Batala, District Gurdaspur.

Learned counsel for the petitioner submits that the petitioner is highly qualified person and is a doctor by profession and his wife is also a

doctor. It is further submitted that as per allegations in the FIR, registered at the instance of Bachan Singh, he is owner of about 07 acres of land and out of the same, 06 kanal has been forcibly cultivated by Hardeep Singh, father of the petitioner and despite the fact that the complainant stopped him to cultivate the land, he had not mend his way and in this regard, the complainant had filed a case before the Court at Batala. On 09.03.2002, Hardeep Singh was planting eucalyptus trees on the land and complainant Bachan Singh and his wife Rajinder Kaur stopped him to do so, but he did not stop. Meanwhile, Gurinder Singh armed with datar, Jaswinder Singh armed with datar and Lovepreet Singh @ Lovely, empty handed, came at the spot and Lovepreet Singh @ Lovely raised a lalkara to catch him and in that process, they caused him injuries.

Learned counsel for the petitioner further submits that on 13.11.2016, the trial Court, while allowing an application under Section 319 Cr.P.C., summoned Gurinder Singh, Jaswinder Singh and Lovepreet Singh as additional accused under Sections 324/34 IPC. Later on, vide a subsequent order dated 06.07.2011, the trial Court, finding that the proclamation warrants of the accused, have been received back duly executed, Gurvinder Singh and Jaswinder Singh were declared as proclaimed offenders and fresh notice was issued to another accused Lovepreet Singh. Thereafter, on a subsequent date, Lovepreet Singh was also declared proclaimed offender. It is further submitted that while appearing as PW1, complainant Bachan Singh has nowhere stated name of the petitioner as one of the offender and in the cross-examination, he has stated as under: -

“...Hardeep Singh has two sons, his elder son's name is Gurinder Singh and the name of the younger one is Surinder Singh...”

Learned counsel for the petitioner has next submitted that once complainant Bachan Singh, who is co-villager, has admitted that Hardeep Singh has two sons namely Gurinder Singh and Surinder Singh, there was no confusion with regard to identity of the petitioner, as the complainant very well knew the names of two sons of Hardeep Singh. It is also submitted that thereafter, an application was moved by the complainant on 28.05.2012, in which it is stated that accused Gurinder Singh son of Hardeep Singh is living abroad, accused Jaswinder Singh, to whom the complainant had informed as son of Hardeep Singh, is actually son of Nirmaljit Singh son of Chuhar Singh, a nephew of Hardeep Singh and Lovepreet Singh is son of Gian Singh and both of them are living in the village.

Learned counsel for the petitioner has also submitted that even in the said application, name of the petitioner was not mentioned as Surinder Singh son of Hardeep Singh. It is further submitted that thereafter, the police recorded the impugned entry with regard to arrest of three persons Gurinder Singh, Jaswinder Singh and Lovepreet Singh, after recording details of facts of the case as well as details of the orders, vide which aforesaid three persons were declared proclaimed offenders. It is further stated in the report dated 14.06.2012 that Hardeep Singh has two sons; elder son is Gurinder Singh, who was declared as proclaimed offender and younger son is Surinder Singh, who is living in some undisclosed place and therefore, Jaswinder Singh and petitioner Surinder Singh are the same person.

It is further submitted that this procedure adopted by the police is totally illegal, as neither any permission was taken from the Illaqa Magistrate to conduct further investigation about identify of the petitioner nor any such notice

was given to him to clarify his position. It is also argued that in the FIR and in the statement of the complainant recorded as PW1 as well as in the subsequent application given to the police, the complainant, at no stage, had raised a finger towards name of the petitioner and the police, at its own, had recorded that in fact, petitioner Surinder Singh and Jaswinder Singh are the same person.

Learned State counsel, on the basis of affidavit of Deputy Superintendent of Police, Sub Division Sri Hargobindpur, District Batala and assisted by learned senior counsel for complainant-respondent No.2, has submitted that the police, on verification, has found that Jaswinder Singh and Surinder Singh are the same person, however, it is not disputed in this affidavit that no permission from the trial Court was taken for conducting further investigation. It is also not disputed that complainant Bachan Singh, in the FIR, in the statement of complainant-PW1 as well as in the application given on 28.05.2012, has never named the petitioner as one of the offender. Even this fact is not disputed in the affidavit of Inspector Sukhinder Singh, SHO, Police Station Ranger Nangal, Police District Batala.

After hearing learned counsel for the parties, I find merit in the present petition.

Admittedly, the police, at its own, has substituted the name of the petitioner as Surinder Singh in place of Jaswinder Singh, who is declared as proclaimed offender, without taking permission from the Court and without looking into allegations of the FIR, statement of complainant-PW1 as well as the subsequent application given to the police. Even in the affidavit of DSP, Sub Division Hargobindpur as well as Inspector, SHO, Police Station Ranger Nangal, Police District Batala, this fact is not disputed.

Accordingly, the present petition is allowed and the impugned report dated 14.06.2012 recorded by the police, substituting the name of the petitioner as Surinder Singh @ Jaswinder Singh, is set aside.

13.02.2020

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[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No