

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

CRM M-33633 of 2020 (O&M)

Date of Decision: October 30, 2020

1. Jarnail SinghPetitioner
Versus
State of Punjab and others Respondents

CRWP 7275 of 2020

2. Karamjeet KaurPetitioner
Versus
State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Pardeep Virk, Advocate
for the petitioners.

Mr. J.S. Ghumman, DAG, Punjab.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through
video-conferencing on account of outbreak of pandemic COVID-
19.

The above two detailed petitions one by Jarnail
Singh petitioner under Section 482 Cr.P.C. seeking directions

for transfer of investigations of case registered by way of FIR No. 99 dated 05.06.2020 under Sections 307, 323, 324, 506, 148 and 149 IPC and Sections 25 and 27 of the Arms Act at Police Station Sadar, Ferozepur to the Bureau of Investigation (hereinafter to be referred as '**the first petition**') and the second bearing No. CRWP 7275 of 2020 by Karamjeet Kaur who is wife of petitioner Jarnail Singh (hereinafter to be referred as '**the second petition**') whereby the letter addressed by the wife has been taken up as a habeas corpus writ petition over alleged disappearance of her husband Jarnail Singh, having arising against the same set of respondents primarily the local police and a legislator of the area are, thus, being taken up together for disposal by this common order because of intricacy and interweaving of the facts and which two petitions have direct bearing on each other.

The wife/petitioner Karamjeet Kaur claiming to be Sarpanch of village Haziwala, District Ferozepur in her letter dated Nil addressed to various functionaries in the State alleged that one day before her letter during afternoon the DSP City Kesar Singh took away the husband of the petitioner, namely, Jarnail Singh, at the instance of sitting MLA and his brother-in-law and, subsequently, in the morning of next day tried to take away her father-in-law Hakam Singh but, thereafter, left him and in stead took away elder brother of her father-in-law in front of

the people and, thus, apprehended danger to life and property from these persons.

The State in its affidavit duly sworn by Senior Superintendent of Police Ferozepur has claimed that an FIR No. 99 dated 05.06.2020 under Sections 307/323/324/506/148 and 149 IPC and Sections 25/27/54, 59 of the Arms Act at Police Station Sadar, Ferozepur was registered on the complaint of one Jagroop Singh a case against Rajbir Singh and others was got registered and cross version vide DDR No. 40 dated 05.06.2020 too stood registered with the same Police Station under Sections 452/323/324/148/149/336/506 of IPC and Sections 25, 27, 54 and 59 of Arms Act on the statement of one Nirvail Singh against Jobanpreet Singh, Jagroop Singh, Gurjit Singh, Satnam Singh, Karan Singh Randhawa, Avtar Singh @ Tari, Tejinder Singh Sandhu, Parwinder Singh and some unknown persons. It is pleaded that in another DDR No. 36 dated 06.06.2020 Police Station Sadar Ferozepur names of Kulwinder Singh, Daya Singh, Jarnail Singh and Magandeep Singh were as the accused in the cross version in which offence under Section 307 IPC was added. It is pleaded that Jarnail Singh petitioner in the first petition was one of the accused in which the investigations are under way and to escape his arrest Jarnail Singh petitioner has hidden from the police, who was never apprehended by the police and to undo the same false

allegations have come about on account of vendetta politics. It is further claimed that in pursuance of one of the letters sent to Chief Minister Punjab an inquiry is under way and, thus, terming the allegations to be false has sought dismissal of the petition.

In the first petition, petitioner Jarnail Singh alleged that he is elected member of Panchayat while his wife is Sarpanch of the village alleging that respondents No. 6 and 7 are influential persons and often interfered in the development works of the village. It is alleged that respondents No. 6 and 7 are usurping public funds which is for the welfare of the people and the development of the village. The complainant claims that he has filed a complaint bearing No. ECIR/JLZO/33/2020 and alleged that on account of this, the local MLA as well as police have become inimical towards the family and all of them are in hand in glove and on account of which they have been falsely implicated and, thus, sought to set up defences of plea of *alibi* and implausibility of the occurrence as claimed in the FIR against the petitioner and others. The petitioner apprehending that there would not be any fair investigations and false fabricated evidence might be cooked against him sought relief of transfer of investigation and administrative action against the officials of the police including seeking of protection of life and personal liberty of the petitioner and his family members.

The learned State counsel had made statement that

the reply filed in the connected petition CRWP 7275 of 2020 be read as reply on behalf of the respondents in CRM M-33633 of 2020 as well.

Upon hearing Mr. Pradeep Virk, learned counsel for the petitioners and Mr. J.S. Ghumman, DAG, Punjab learned State counsel and on perusal of records.

From the stands of the two sides as is well elicited in their documents and pleadings and it is fairly conceded that the petitioners in both these matters are husband and wife and both of them are holding posts of Panch and Sarpanch of the village. The private respondent admittedly happens to be the local MLA of the area and, therefore, on account of this certainly keeps the Court on guard to ward off any element of political revenge and vengeance and that too in view of fast approaching elections to the State legislature. A close perusal of the complaint of Karamjeet Kaur shows that it does not bear any date and considering her e-mail dated 08.09.2020 the Court takes and accepts that the occurrence enumerated therein is a short while prior to the same. In the vernacular no date and time of the occurrence figures therein in the allegations. More so, only name of DSP Kesar Singh figures and as has been stated at the bar by the learned State counsel on getting instructions this official has already died on 12.09.2020 due to brain hemorrhage. More so, the allegations that husband of the

petitioner Karamjeet Kaur, namely, Jarnail Singh petitioner in the first petition was taken away by the police must be assigned the date of this representation dated 08.09.2020, the above petition by the husband has been filed on 12.10.2020, which is duly signed by the husband and his counsel clearly establishes and illustrates that the husband at that point of time was a free man and who has managed to engage a lawyer, prepare the pleadings and got the affidavit attested in support of his contentions. There is no substantial and cogent element to suggest to the Court as to in the petition of the wife why would private respondents be inimical towards them nor as to their specific and definite role in taking away of the husband by the police at the behest of the private respondents. It is by no means refuted by the counsel for the petitioners in his submissions that petitioner Jarnail Singh is facing criminal cases and there appears to be version and cross-version makes out a strong circumstance that all is not well with the petition of the wife who has managed to ensure that the police is discouraged from proceeding ahead in the criminal cases against her husband which have come about much prior to these allegations. Rather what one can discern from the allegations of the wife/petitioner Karamjeet Kaur that addition of the names of private respondents including that of the DSP are sought to be improved upon subsequently with a ulterior motive to enlarge

the political arena of revenge and vengeance to rope in the political opponents as well and for which CRM 1006 of 2020 has come about after much delay. The petition on the face of it appears to be figment of lies cleverly devised to attain sinister design for a motivated cause and the Court needs to be slow in taking cognizance of such frivolous unsubstantiated complaints and which has in recent years attained sinister proportions, especially, in this State, which has become hot bed of political rivalry, false implications and vengeance.

In the petition of the husband filed under Section 482 Cr.P.C. invoking the inherent powers of this Court, a heavy onus lies upon the petitioner to establish legal urgency and necessity for this Court to invoke its inherent powers. It is clearly admitted stand of the two sides that the petitioner and his cohorts are facing criminal charges and their opponents are accused in version and the cross version so registered by the police. It is not a case of heinousness to such an extent that would impel and propel the Court to invoke these extraordinary powers when there is no overwhelming substantial averment duly supported on the record to show that the police was inimical towards them, especially, when the claimed proponent of this Ex DSP Kesar Singh has already died. What one can deduce from the pleadings of the petitioner Jarnail Singh is that in his pleadings he is trying to create evidence with a pre-conceived intention

that he was present at his house at the time of this occurrence and the presence of certain persons when the occurrence has taken place and the plea of defence that one Rajbir was found inflating the tyre of the car of the petitioner which led to a quarrel between the two groups rather to the mind of this Court, the petitioner fairly accepts and concedes that an occurrence has taken place between two groups and on account of injuries to the two sides version and cross-version have been registered by the police. Thus, it establishes that the police is fair in its investigations and it is not a case that one of the groups have been left out and is merely a simple injury case. At this juncture, it would be too preposterous to transfer the investigation and the political tinge, that is sought to be introduced is probably with a view to make out a strong case for the petitioner so that there could be undue exercise of powers by this Court which otherwise is not evidently made out. It is well enunciated law that the Court should be slow to interfere in the investigations and ordering transfer of the same merely on the asking of a party. Unless and until there are strong circumstances for the Court to interfere, it should desist from showing indulgence at the mere asking on flimsy grounds. Nothing could be pointed out by the counsel for the petitioner to the arguments of the State counsel as to what strong grounds are emancipating at this juncture for this Court to transfer the investigation as prayed

in the petition.

The claim of the petitioner Jarnail Singh that he has filed a complaint before the Enforcement Directorate on perusal of the document Annexure P-2 does not in any manner reflect name of the person against whom allegations have come about nor counsel for the petitioner could satisfactorily enliven his submissions as to this claim of being cause of this personal vengeance.

The Panchyat deed further substantiates the fact that the present petitions are outcome of political group rivalry i.e. already brewing between two sides where element of political enmity between the local legislator and the petitioner side is sought to be given corroboration through other means and, thus, by all means embarrass the representative of the people and, thus, trying to take sadistic pleasure out of it.

Apparently, the petitions are mere misuse of the process of court whereby an attempt is being made to take the law for a ride. In the light of the foregoing discussion above, there appears to be no merit in both the petitions and, resultantly, both are dismissed.

October 30, 2020

amit rana

(FATEH DEEP SINGH)

JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No