IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

106 CRM-28870 of 2020 and
CRM-M-36555 of 2020 (O&M)
Date of decision:18.12.2020

Dashrath

... Petitioner

versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Jagjot Singh, Advocate, for
Mr.Kunal Dawar, Advocate
for the petitioner
Mr.B.S.Virk, DAG, Haryana
...

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

On 9.11.2020, the following order had been passed:-

"All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioner seeks the issuance of directions to the official respondents to get proper investigation conducted in FIR no.402, dated 24.09.2020, registered at Police Station Adarsh Nagar, District Faridabad,

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alleging therein the commission of offences punishable under Sections 148, 149, 195A, 323, 324, 341, 379-B, 427 and 506 of the IPC.

Learned counsel for the petitioner submits that despite the petitioner possessing the CCTV footage of the occurrence in which the petitioner has also been made an accused, the SHO of Police Station Adarsh Nagar, District Faridabad, is not even going into that evidence, only to favour the opposite party.

The Deputy Commissioner of Police concerned, in Faridabad, is directed to go into the matter and to file his personal affidavit, after himself viewing the CCTV footage (copy Annexure P-5), stated to be in the possession of the petitioner, with learned State counsel to also examine that footage.

It is made clear that no such shielding is expected from an officer of the rank of a Deputy Commissioner of Police, but if it is found that any such shielding of the SHO (or any other person) is taking place, the DGP, Haryana, will be directed to go into the matter personally and to file an affidavit in this petition.

Adjourned to 11.12.2020.

In the meanwhile, the report under Section 173 of the Cr.P.C. be not submitted till the next date of hearing."

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Today, firstly, an application has been filed, bearing CRM no.28870 of 2020, seeking a correction in the aforesaid order of this court, inasmuch as learned counsel for the petitioner submits that the last line of the order directing that the report under Section 173 of the Cr.P.C. be not submitted till the next of hearing before this court (i.e. in fact till 11.12.2020), be clarified to state that the report under Section 173 of the Cr.P.C. be not submitted only qua the petitioner.

However, that prayer is not considered to be even gone into in view of the status report dated 9.12.2020 as has been placed on record by learned State counsel in terms of the aforesaid order (by way of an affidavit of the DCP, Ballabgarh, District Faridabad), stating therein that though the petitioner is not visible at the place of occurrence as per the CCTV footage, however both, in terms of the disclosure made by his co-accused, as also on the basis of his mobile phone location (as would have been gathered from the telephone company concerned), he was found to be present at the place though in a side lane.

Learned counsel for the petitioner however submits that with the petitioner not being present in the CCTV footage, he cannot be said to be present on the spot and he has been falsely implicated.

It is to be again noticed here that by this petition, the petitioner seeks a fair investigation into the matter and on the arguments raised on 9.11.2020, this court had directed the DCP concerned to file an affidavit with regard to the said contentions raised.

That having been done, this court would no longer interfere with regard to the investigation in the face of what has been stated by the

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DCP as regards the presence of the petitioner at the spot even as per his mobile phone location, even if a disclosure statement allegedly made in police custody by a co-accused is to be ignored.

Consequently, I see no reason to entertain the petition any further, which is disposed of with a direction that, obviously, the investigation would be taken to its logical conclusion, with it being conducted in a fair and proper manner; and if any person is aggrieved of the eventual report submitted to the competent court by the investigating agency, naturally he/she would always be at liberty to take his/her legal remedies qua the said report.

Again naturally, this court has not made any observation on the merits of what has been contended in the report submitted by the DCP, nor on the contentions raised on behalf of the petitioner, which would be gone into by the competent court at the appropriate stage.

18.12.2020 **(AMOL RATTAN SINGH)**
pk **JUDGE**

Whether speaking/reasoned Yes
Whether Reportable No

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