

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

124+268

CRM-1862-2020 in/and

CRM-M-50595-2019

Date of decision: 24.01.2020

Mazeed Mahant

.....Applicant/Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vansh Malhotra, Advocate
for the applicant/petitioner.

Mr. Kuldeep Tiwari, Addl. A.G., Haryana and
Mr. Arjun Singh Yadav, AAG, Haryana
for respondents No.1 to 4.

Mr. Jasdev Singh Mehndiratta, Advocate
for respondents No.5 and 6.

ARUN KUMAR TYAGI, J (ORAL)

CRM-1862-2020

Prayer in the application is for placing on record copy of affidavit of the petitioner in compliance with the order dated 19.12.2019 as Annexure P-6.

The application is allowed and affidavit of the petitioner is taken on record as Annexure P-6.

CRM-M-50595-2019

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C.") for issuance of appropriate order/direction to respondents No.1 to 3 to apprise this Court about the latest status of FIR No.301 dated 20.06.2019 under Sections 323, 324, 341, 427 and 506 read with Section 34 of the Indian Penal Code, 1860 (for short, "IPC") registered at Police Station Pehowa, District Kurukshetra and to transfer the investigation in the said

FIR to an independent agency.

The petitioner has also sought directions to respondent No.2 to ensure the fair investigation in the above said case as the police is acting at the behest of the accused persons who are politically connected people.

The petitioner has further sought directions to respondents No.1 to 3 to safeguard life, liberty and property of the petitioner and his family members from danger at the instance of respondents No.5 and 6.

The Coordinate Bench vide order dated 28.11.2019 issued notice of motion for 19.12.2019 and directed the petitioner to meet respondent No.2-Superintendent of Police, Kurukshetra in the coming week and directed respondent No.2-Superintendent of Police, Kurukshetra to go into the grievances of the petitioner and instruct learned State counsel as to what was determined.

On the adjourned date i.e. 19.12.2019, affidavit of Dheeraj Kumar, HPS, DSP Pehowa was filed on behalf of respondents No.1 to 4 mentioning therein that in view of the affidavit of the persons present at the time of incident and fair investigation conducted, accused Renu Mahant was found innocent and accused Sonu had been arrested and produced before the trial Court. In view of the opinion of the Board of Doctors as to injury, inflicted with sharp edged weapon, allegedly involving fracture, having been caused with friendly hand, Sections 324 and 326 of the IPC were deleted.

On that date the petitioner claimed that he had gone to meet respondent No.2-Superintendent of Police, Kurukshetra on four occasion but she did not meet him and the petitioner was told that she was not

well on two occasions and on other two dates she was busy with some function on which the petitioner was directed to file affidavit in this regard and respondent No.2-Superintendent of Police, Kurukshetra was directed to be personally present in the Court on the next date of hearing i.e. 24.01.2020.

The petitioner has filed his affidavit today in support of averments made by him that he had gone to meet Superintendent of Police, Kurukshetra on 02.12.2019, 05.12.2019, 08.12.2019 and 09.12.2019.

Ms. Astha Modi, IPS, Superintendent of Police, Kurukshetra has appeared in compliance with order dated 19.12.2019 passed by this Court and filed her affidavit that she was busy for the International Geeta Jayanti Mahotsav scheduled to be held from 23.11.2019 to 10.12.2019 at Kurukshetra and Surya Grahn Mela from 20.12.2019 to 26.12.2019 and she was on earned leave from 07.12.2019 to 15.12.2019.

In view of the averments made therein, explanation furnished is accepted to be satisfactory.

Learned counsel for the petitioner has submitted that in view of the contradictory reports given by the Medical Officer at Civil Hospital, Gulha as to injury No.1 caused with sharp edged weapon being grievous and opinion of Medical Board as to there being no fracture and the injury having been caused with friendly hand, the matter may be referred to medical board of PGI Chandigarh for its opinion and the investigation may be transferred to some other independent agency.

On the other hand, learned State counsel has submitted that

respondent No.2-Superintendent of Police, Kurukshetra had constituted SIT which had investigated the case and on completion of the investigation, report under Section 173(2) of the Cr.P.C. has been filed before the Illaqa Magistrate.

In view of the observations made by Hon'ble Supreme Court in **Sakiri Vasu Vs. State of U.P. and others, 2008(1) RCR(CrI.) 392**, the petitioner has got equally efficacious remedy of filing an appropriate complaint/application before the Illaqa Magistrate for taking cognizance under Sections 324 and 326 of the IPC.

The facts and circumstances of the case do not warrant the inference as to the investigation being malafide or unfair and having been conducted under political influence so as to call for interference by exercise of power under Section 482 of the Cr.P.C.

So far as the prayer of the petitioner for direction for protection of his life and liberty is concerned, it is pertinent to observe that the petitioner is residing in District Kaithal. The petitioner is directed to make appropriate representation to Superintendent of Police, Kaithal and on making of such representation by the petitioner to Superintendent of Police, Kaithal he shall look into the same and take appropriate steps for protection of life and liberty of the petitioner in view of threat perception/apprehension of danger at the instance of respondents No.5 and 6.

The petition is disposed of accordingly.

24.01.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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