

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

(1) CRWP-1248 of 2019 (O&M)

Sadik Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(2) CRM-M-1755 of 2020 (O&M)

Sikander Singh Gill

...Petitioner

Versus

State of Punjab and others

...Respondents

Date of decision: 28.02.2020

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. K.S. Sidhu, Advocate for the petitioners
in CRWP-1248-2019.

Mr. G.S. Dhaliwal, Advocate for the petitioner
in CRM-M-1755-2020.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

Mr. Sunil Chadha, Sr. Advocate with
Mr. Namish Sodhi, Advocate for respondent No.6
in CRWP-1248-2019.

Ms. Monika Tanwar, Advocate
for respondents No.7 & 8 in CRM-M-1755-2020.

H.S. MADAAN, J.

By this order, the aforementioned petitions are being
decided together since facts are almost the same and common issue is
involved in both the petitions.

Petitioner Sadik Singh, aged about 63 years, his wife Bhupinder Kaur, aged about 61 years, their son Tanvir Singh, aged about 34 years and Manjit Kaur, aged about 39 years wife of Tanvir Singh have brought the present criminal writ petition under Articles 226/227 of the Constitution of India for issuance of appropriate writ, orders or directions especially in the nature of mandamus directing State of Punjab through Secretary, Department of Home Affairs & Justice, Punjab Civil Secretariat, Chandigarh, DGP, Punjab, Police Headquarters, Sector-9 Chandigarh and SSP, Police District Khanna-respondents No.1 to 3 respectively to protect the personal life and liberty of the petitioners at the hands of respondent No.6 at whose instance, respondents No.4 & 5 are threatening the petitioners to rope them in false criminal case by entertaining the second complaint given by respondent No.6, which is quite grave violation of standing instructions dated 01.04.2008 issued by respondent No.2-DGP, Punjab and further issuance of writ in the nature of certiorari for quashing the impugned action of respondents No.4 & 5 etc.

According to the petitioners Sikander Singh younger son of Sadik Singh and Bhupinder Kaur got married with respondent No.6 Rubia Bhatti in the year 2016. No dowry was demanded or accepted. Sikander Singh went back to Australia after his marriage. Rubia Bhatti used to pick up quarrel with petitioners No.1 & 2; Sikander Singh used to come to India every year. Respondent No.6 started demanding share

from joint property; petitioner No.1 had disowned Sikander Singh and his wife Rubia Bhatti. Then, she submitted false complaint dated 30.04.2019 before respondent No.3 on the allegation of demand of dowry and giving her beatings. That complaint was marked to Superintendent of Police (HQ) Khanna for necessary action. Enquiry was conducted; petitioners had got their statements recorded; notice was issued to respondent Rubia Bhatti who appeared before Enquiry Officer but stated that she did not want to make any statement since she had made another complaint before respondent No.4-Inspector General of Police, NRI & Women Wing, SAS Nagar, Punjab. Ultimately, Enquiry Officer came to the conclusion that there was no truth in the allegations levelled against the petitioners and recommended the complaint to be consigned to the office record room. Respondent No.6 had filed a false complaint to respondent No.4, which is not maintainable, since she is not an NRI. Even as per standing instructions issued, vide Diary No.137-233/PA/DGP dated 01.04.2008 by respondent No.2, a second enquiry cannot be conducted into the same complaint or cause without his approval or approval of Punjab Government.

Feeling aggrieved, the petitioners have brought the present criminal writ petition.

In CRM-M-1755-2020, petitioner Sikander Singh Gill is praying that a direction be issued to the official respondents to hold a

fair enquiry in respect of representation dated 19.08.2019 submitted by him against his wife Rubia Bhatti and not to conduct a second enquiry on complaint submitted by Rubia Bhatti against him and his family members.

On notice, the respondents have appeared and filed written replies, in the first petition.

I have heard learned counsel for the parties besides going through the record.

The main question to be seen in this case is as to whether the second enquiry by the police authorities on similar allegations is maintainable. The petitioners are relying upon the standing instructions dated 01.04.2008 issued by DGP, Punjab in that regard. For ready reference, the operative part of instructions is being reproduced as under:-

“It has come to light that enquiries are being got conducted by the applicant's side or opposite side by giving various applications. In this connection, on one application or case, various enquiries are got conducted from the officers of the district or from the higher officers of outside districts. For this, tension between the general public is being increased and they always try in getting reports in their favour. Keeping this experience, reports are given against one another which affect the case. The senior officers face difficulty in finding out the truth and giving independent decision. So, in future concerning one application or case, only enquiry be conducted by the concerned officers of the district which should be complete on the basis of proofs. In case on any application or case, the enquiry is to be got conducted from the higher officers of outside district/ Range, then the case be sent for further enquiry after approval of the undersigned or Punjab Government. Strict compliance be made.”

It has to be determined as to how much value is to be attached to such instructions. Those instructions have been issued on administrative side, providing guidelines to the police officers discouraging holding of multiple enquiries in a complaint. The purpose behind issuance of these guidelines is that once a matter has been inquired into by the competent police officer, then the complainant may not get it re-inquired from another police officer of his/her liking and choice in the process leading to very complex and complicated situation of having contradictory reports. But then, these guidelines cannot be taken to have any legal sanctity or statutory force of law, so as to get those specifically enforced by invoking writ jurisdiction. Even otherwise, these guidelines if analyzed carefully and properly, the holding of second enquiry is not absolutely barred. A Co-ordinate Bench has given this very interpretation in a judgment **Pardeep Singh Vs. State of Punjab and others, 2019 (1) RCR (Criminal) 214**, observing that although multiple enquiries have been deprecated and should not be resorted to, however, as it is only once matter was inquired into, there is no absolute bar on getting a criminal matter inquired into second time.

Even otherwise, the first enquiry should be a proper enquiry conducted in a fair manner observing rules of natural justice, associating both the parties and allowing them to present their view point and submit evidence in support of their contentions.

In this case, in the first enquiry, when respondent No.6 specifically stated before the Enquiry Officer that she had approached respondent No.4 with her complaint and did not want to make statement before him, the Enquiry Officer should not have gone ahead with the enquiry and rather, it would have been proper and appropriate if he had gone back to his immediate superior SSP of the district intimating about the state of affairs and seeking further guidance in the matter. The Enquiry Officer is supposed to be impartial and unbiased. If one of the parties expresses lack of faith and confidence in the Enquiry Officer, then the Enquiry Officer should not go ahead with the enquiry because that goes against principles of natural justice. Therefore, the enquiry conducted by SP (HQ) Khanna cannot be termed as proper enquiry and the second enquiry under the circumstances is not barred.

An objection has been raised on behalf of the petitioners that permission of DGP, Punjab was not obtained for holding of the second enquiry. In view of the discussion above, since enquiry by SP (HQ) Khanna could not be held to be conducted in a proper and appropriate manner, in my considered view, permission from DGP of Punjab Government for holding second enquiry was not barred. Many of the contentions raised by learned counsel for the petitioners are on the merits of the case, which need not be gone into while deciding the question as to whether the second enquiry under the circumstances is

barred or not. If we peruse the written reply filed on behalf of respondents No.1, 2 and 4, then it comes out that such official respondents have also contended that under the circumstances of the case, holding of the second enquiry was not barred. Therefore, there is no merit in the present petitions. The same stand dismissed accordingly.

28.02.2020

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(H.S. MADAAN)

JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No