

CRM-M-31791 of 2018

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

**CRM-M-31791 of 2018
Date of decision:09.09.2021**

Kuljit Kaur and another ... Petitioners

Vs.

State of Punjab and others ... Respondents

**CRM-M-35094 of 2018
Date of decision:09.09.2021**

Kuljit Kaur ... Petitioner

Vs.

State of Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Surinder Thakur, Advocate
for the petitioners in CRM-M-31791 of 2018.

Mr. Balbir Singh, Advocate
for the petitioner in CRM-M-35094 of 2018.

Mr. Sandeep Singh Deol, DAG, Punjab.

Mr. R.S.Thakur, Advocate
for respondent No.5 in CRM-M-31791 of 2018 and
for respondent No.9 in CRM-M-35094 of 2018.

SUVIR SEHGAL J.

Heard through video conferencing.

This order shall dispose of CRM-M-31791 of 2018 titled as
'Kuljit Kaur and another Vs. State of Punjab and others' and CRM-M-35094
of 2018 titled as 'Kuljit Kaur Vs. State of Punjab and others', as the

allegations and the facts in both the cases are common.

The first petition (CRM-M-31791 of 2018) has been filed by Kuljit Kaur and her husband, Sukhwinder Singh, under Section 482 of the Code of Criminal Procedure, 1973 for directing official respondents No.2 to 4 to ensure safety and security of life, liberty and property of the petitioners and to get the entire matter, including false registration of criminal cases against the petitioners by respondents No.5 to 7, who are police officials, enquired through an independent investigation, especially from a Special Task Force (STF).

The second petition (CRM-M-35094 of 2018) has been filed by Kuljit Kaur for directing respondents No.2 to 5 to conduct a free and fair investigation in FIR No.161 dated 06.08.2018 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short “NDPS Act”) and Section 25 of Arms Act, 1959 at Police Station, Adampur, District Rural Jalandhar by constituting a Special Investigation Team (SIT), as husband of the petitioner has been falsely implicated by respondents No.6 to 8 at the instance of respondents No.9 to 11, who had earlier pressurized the husband of the petitioner to indulge in drug trade and are inimical towards him. A further direction has been sought to ensure safety and security to the life, liberty and property of the petitioner and her family members as they have imminent danger from the hands of respondents No.6 to 12, who are police officials.

Facts leading to filing of both the petitions are that in the year 2014, Sukhwinder Singh came in the contact of Ajay Kumar alias Billa,

Constable in Punjab Police, who was a drug addict and coerced him into addiction and introduced him to Sushil Kumar alias Sheela, Constable Punjab Police and Inspector, Palwinder Singh, who have been impleaded as respondents No.6, 7 and 5 respectively in CRM-M-31791 of 2018 and respondents No.10, 11 and 9, respectively, in CRM-M-35094 of 2018 and compelled him to supply drugs to customers/buyers. On the persuasion of Kuljit Kaur, her husband, Sukhwinder Singh, got over his addiction and decided not to indulge in drug trade. When he resisted the pressure of the said police officials, they abducted the petitioners from their home in 2016 and after taking Rs.70,000/- from them, released Kuljit Kaur but registered the false criminal cases at P.S.Mehtiana against her husband. In order to expose the police officials, Kuljit Kaur held a press conference and submitted a representation to the DGP, Punjab, highlighting the pressure being exerted on her husband.

The first petition was instituted by husband and wife, which came up for hearing on 27.07.2018, when this Court issued notice of motion and stayed the arrest of both the petitioners. This infuriated the said police officials, who forcibly took Sukhwinder Singh from his house on 05.08.2018 and kept him in illegal confinement. They were in touch with Kuljit Kaur on her mobile phone and even sent messages, to her which have been placed on the record, asking her not to take any action. She submitted a representation to the DGP, Punjab and other senior officials. On 06.08.2018, Sukhwinder Singh was named as an accused in FIR No.161 dated 06.08.2018 registered against him on the statement of Harjit Singh,

ASI, for offence under the NDPS Act and Arms Act on the allegation that contraband and live cartridges have been recovered from him. The said police officials are still harassing the petitioners and threatening them and in these circumstances, prayer has been made in second petition for investigation in the said FIR by constituting a SIT.

The petitions have been contested by way of separate replies filed by the State of Punjab and the above named police officials, denying the allegations levelled against them. With their replies, report dated 23.08.2018 of an enquiry conducted by Deputy Superintendent of Police (Investigation) District Hoshiarpur has been filed.

I have considered the submissions of the parties and perused the paper-books with their able assistance.

In the replies filed by the respondents, it has been submitted that Kuljit Kaur and Sukhwinder Singh are well entrenched in the trade of sale of drugs, against whom following cases have been registered:-

“(i) Case/FIR No.148 dated 29.09.2016 U/s 22/61/85 NDPS Act P.S. Mehtiana is registered against Sukhwinder Singh.

(ii) Case/FIR No.169 dated 04.11.2016 U/s 22/61/85 NDPS Act P.S. Mehtiana is registered against Gurpreet Singh @ Phona and Paramvir Singh @ Karan, P.S.Adampur, after recovering 142 gram drug substance from them. On their disclosure statement, Sukhwinder Singh @ Sukha and Kuljit Kaur were nominated as accused and arrested in the case.

(iii) Case/FIR No.42 dated 25.04.2018 U/s 25/54/59 Arms Act

P.S. Mehtiana against Sukhwinder Singh @ Sukha.

(iv) Case/FIR No.226 dated 26.11.2014 U/s 22/61/85 NDPS Act P.S Adampur, District Jalandhar Rural against Sukhwinder Singh @ Sukha.

(v) Case/FIR No.79 dated 28.05.2015 U/s 22/61/85 NDPS Act P.S.Bhogpur, District Jalandhar Rural against Sukhwinder Singh @ Sukha.

(vi) Case/FIR No.117 dated 07.10.2012 U/s 306 IPC P.S. Mehtiana against Sukhwinder Singh @ Sukha and Kuljit Kaur.

(vii) Case/FIR No.161 dated 06.08.2018 U/s 21/61/85 NDPS Act and 25/54/59 Arms Act P.S.Adampur, District Jalandhar Rural against Sukhwinder Singh was registered, after recovering 100 gram heroin and 05 cartridges 315 bore. On the disclosure statement of petitioner Sukhwinder Singh who was arrested in Case No.161 dated 06.08.2018 U/s 21/61/85 NDPS Act and 25/54/59 Arms Act, his accomplice foreign citizen Yoshva @ Smith s/o Amagva R/o Akra (Country Ghana) presently tenant near Pillar 708, Bindapur, Uttam Nagar, New Delhi was arrested in this case and 500 gram heroin was recovered from him in this case.”

The allegations levelled by Kuljit Kaur regarding abduction and extortion on 28.08.2016 have been specifically denied, though it has been submitted that the FIR No.148 dated 29.09.2016 was lodged at Police Station Mehtiana against Sukhwinder Singh. Reliance has been placed upon

the statement of the Panchayat to the effect that Sukhwinder Singh is habitual of selling drugs and numerous FIRs have been registered against him at different police stations. In the enquiry conducted by the DSP, it has been found that Constable Ajay Kumar and Constable Sushil Kumar never remained posted at Police Station Mehtiana in the year 2014-15 or 2015-16. It has been further reported that Inspector Palwinder Singh remained posted as SHO Police Station Mehtiana from 29.07.2013 to 26.02.2014; from 09.01.2016 to 12.10.2016 and from 23.06.2016 to 28.08.2016 but Ajay Kumar and Palwinder Singh never remained posted together at Police Station Mehtiana. It has been further found that in 2016, Inspector Palwinder Singh was posted at Police Station Mehtiana when FIR No.148 dated 29.09.2016 was registered against Sukhwinder Singh on the statement of ASI Satnam Singh. During the course of enquiry, call details of the named police officials were examined, their mobile location was ascertained and it was found that none of them had any conversation with either of the two petitioners from 01.01.2018 to 21.08.2018. Insofar as the allegation pertaining to the false involvement of the petitioner during the tenure of SSP Raj Jit Singh is concerned, it was found that Inspector Palwinder Singh was not posted at District Hoshiarpur at that time. Allegation regarding lodging of FIRs against Sukhwinder Singh, at the instance of Inspector Palwinder Singh was also found to be false. The press conference held by the petitioners in the electronic media, as per the submission of the respondents is to mount pressure on the police officials and to create defence in their favour. It has been deposed that the petitioner Sukhwinder

Singh is involved in six cases and since he had a notorious reputation and he was kept under surveillance by the officials of P.S.Mehtiana and even after Sukhwinder Singh held a press conference, he was found to be indulging in drug trade in August, 2018 in association with a foreign national, who has been arrested on his statement. In particular, the following findings recorded by the DSP in his report dated 23.08.2018 deserve to be noticed:-

“That from the statements written during the enquiry, from enquiry of record of P.S Mehtiana, from the year 2014 till date total 06 cases of NDPS Act and Arms Act are registered against Sukhwinder Singh s/o Harbans Raj, caste Adi-Dharmi R/o Manko P.S Adampur, District Jalandhar presently R/o Mana P.S Mehtiana in P.S Mehtiana, District Hoshiarpur, P.S Adampur and P.S Bhogpur, District Jalandhar Rural. In the aforesaid cases, since Sukhwinder Singh @ Sukha is on bail and due to his living in P.S.Mehtiana's village Mana, an eye was being kept on him by the police of P.S Mehtiana, but no case of NDPS Act or any other case was registered against him. The aforesaid Sukhwinder Singh is doing the business of selling drugs ever since 2014 continuously. After holding press conference also, the petitioner Sukhwinder Singh @ Sukha was arrested while selling drugs by District Jalandhar (Rural)'s police on 06.08.2018 in Case No.161 dated 06.08.2018 U/s 21-61-85 NDPS Act & 25-54-59 Arms Act P.S.Adampur, in which

he along with his foreigner accomplice is locked in Kapurthala Reformatory House. During the posting of Inspector Palwinder Singh in the year 2016, ASI Satnam Singh, P.S Mehtiana had recovered 280 gram drugs from Sukhwinder Singh and had registered Case No.148 dated 29.09.2016 U/s 22-61-85 NDPS Act P.S Mehtiana aptly against him, which is yet pending in the Court, in which charge has been framed on 05.04.2017 and the evidence of the police officials is yet to be take place, in which respondent No.5 is witness as SHO. The allegations which Sukhwinder Singh and Kuljit Kaur has alleged against Inspector Palwinder Singh 321/FR, Ct. Ajay Kumar 731/HPR and Ct. Sunil Kumar No.388/HPR in Annexure P-2 enclosed with the writ petition filed by them in the Hon'ble Punjab and Haryana High Court, Chandigarh, these allegations are absolutely baseless and concocted, in which no truth has been found.”

As is evident from the above, each and every allegation levelled in both the petitions, has been specifically denied by the respondents in their replies. There is no rejoinder by the petitioners to any of the petitions. The accusations levelled by the petitioners have been enquired into by DSP rank official and they have been found to be false. Except for bald allegation which the petitioners have failed to substantiate, there is no material on record to ascertain their veracity. None of the reliefs sought for can be granted. Both the petitions, being bereft of merits, are dismissed.

Needless to mention, the petitioner, Sukhwinder Singh is facing trial in number of cases, which shall be decided by the trial Court without being influenced by any of the observations made hereinabove.

(SUVIR SEHGAL)
JUDGE

September 09, 2021
savita

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>