

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

**CRM-14491-2021 in/and
CRM-M-26795-2020**
Date of Decision:20.07.2021

Sandeep Kumar

.....Petitioner

Vs.

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present:- Mr. Vivek Goyal, Advocate,
for the applicant/petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Gaurav Singla, Advocate,
for respondents no. 4 and 5.

Mr. Rajesh Duhan, Advocate,
for respondents no.6 and 8.

AMOL RATTAN SINGH, J. (Oral)

Case heard by video conference.

By this petition, the petitioner sought a direction to the State of Haryana and its police functionaries to take legal action against respondents no.4 and 5, who are shown to be an Assistant Sub Inspector of Police and a *Munshi* (normally a Head Constable) posted in District Karnal, with action also sought against respondents no.6 to 9, with the latter alleged to have illegally harvested the crops of the petitioner and his family, despite complaints filed before the police, but with no action taken thereupon.

He further sought protection of life and liberty at the hands of respondents no.4 to 9 (i.e. including the two police officials against whom the allegations have been made).

At the time when notice of motion was issued on 09.09.2020, by this court (co-ordinate Bench), the following order had been passed:-

“Learned counsel for the petitioner argues that respondents No. 6 to 9 illegally harvested the standing crop of the petitioner and even though report in this regard was made to the police, no action was taken. Instead, respondents No. 4 and 5 demanded illegal gratification for registration of a case and for arresting the accused persons. Illegal gratification was infact given yet, nothing was done. A specific complaint dated 26.04.2020 has been made to respondent No. 3 and respondent No. 2 has also directed him to take necessary action within 10 days vide communication dated 19.06.2020 (Annexure P-3) but nothing has been done till date.

Notice of motion for 30.09.2020.

Mr. Munish Sharma, AAG Haryana, accepts notice on behalf of respondents No. 1 to 3 and waives service. Respondents No. 4 to 9 be served through dasti process as well.

Reply be filed through affidavit of respondent No. 3.”

Thereafter, upon a reply having been filed on behalf of the respondent State, vide an order passed on 14.01.2021, the SP, Karnal, had been directed to file another affidavit, annexing therewith a copy of the inquiry report on the basis of which the police officials (referred to hereinabove), were found to be guilty and were imposed a punishment of stoppage of three increments with cumulative effect, (the said order having been passed by this court as it was noticed therein that it was not clear as to for what offence the said punishment had been awarded).

On March 24, 2021, the following order was passed by this court, after reproducing therein the order earlier passed on 14.01.2021:-

“An affidavit of the Superintendent of Police, Karnal, dated 12.03.2021, has been filed, stating therein that ASI Rajinder Singh, as per the videos recorded, was found to be accepting some articles “looking like money”, upon which a departmental enquiry was ordered against him as also EHC Sulakhan Singh, with the charges against them were found to be proved and therefore they having been awarded a punishment of stoppage of three annual increments with permanent effect.

It has further been stated that on 01.06.2020 the District Magistrate, Karnal, had been requested to grant concurrence for proceedings against the officials departmentally, as the misconduct came within the purview of Rule 16.38 of the Punjab Police Rules, 1934, and accordingly such sanction was granted.

The SP is directed to file another affidavit, stating as to why, when the aforesaid allegations have been found to be correct, no criminal case alleging therein the commission of an offence punishable under the provisions of the Prevention of Corruption Act, 1988, has even proposed to be initiated against the officials concerned.

Adjourned to 05.05.2021.”

No affidavit having been filed by the SP, thereafter on 02.07.2021 the following order was passed by this court (again after reproducing therein the order¹ earlier passed):-

“No affidavit of the SP, Karnal after March 24, 2021, is on record, though the next date of hearing otherwise fixed was 05.05.2021, but on which date the case was not taken up.

Looking at the seriousness of the allegations made against respondents no.4 and 5, whereas the petitioner obviously would be within his right to withdraw the petition, he being the master thereof; however, as to whether the matter has been taken to its logical conclusion or not in terms of the order dated March 24, 2021, (based on the affidavit of the SP, Karnal, dated 12.03.2021), adjourned to 16.07.2021, with the SP, Karnal, directed to file an affidavit in terms of the aforesaid order, failing which he shall remain present in court on the next date of hearing itself, by way of video conferencing.

In the meanwhile, the Registry is directed to take on record the affidavit of the SP, Karnal, dated 12.03.2021.”

It is to be noticed that the order dated July 02, 2021 was passed after the petitioner had filed CRM No.14491 of 2021, seeking to withdraw the petition itself.

However, obviously looking at the fact that as per the SP himself, respondents no. 4 and 5 were found guilty of having taken illegal gratification (as per the inquiry conducted in disciplinary proceedings against them), this court found it surprising that no criminal proceedings had been initiated for the commission of that offence (with obviously no comment made on the correctness thereof or otherwise).

The affidavit of the SP, Karnal, not being on record, on July 16, 2021 hearing in the matter was adjourned till today, with the affidavit dated 15.07.2021 now having been placed on record; from which learned State counsel points to paragraph 9 wherein it has been stated by the SP that FIR no.412, dated 07.07.2021, has been registered at Police Station Indri, against respondent no.4 ASI Rajinder and respondent no.5, EHC Sulkhan Singh, and investigation in the matter has been entrusted to a DSP, as required under the provisions of the Prevention of Corruption Act, 1988, the allegations in the FIR being of the commission of an offence punishable under Section 7 thereof.

It has also been stated by the SP that it would be ensured that the investigation is conducted in a fair and proper manner and taken to its logical conclusion at its earliest.

That being so, nothing further remains to be done by this court except to reiterate that the query made by this court in the previous orders, as

regards why no criminal proceedings were initiated against the two officials, was wholly on the basis of the fact that the SP himself, in his affidavit dated 12.03.2021, had stated that upon a regular departmental inquiry having been initiated against the aforesaid officials, and a report thereafter having been submitted by the DSP, Indri, on the basis of a video recording, it had been held that the charges of accepting illegal gratifications stood proved against both the officials (reference paragraphs 3 and 4 of the affidavit of the SP, Karnal, dated 12.03.2021).

Naturally, it is to be repeated here that this court not being seized of either proceedings at this stage, i.e. neither departmental proceedings or criminal proceedings against the aforesaid officials, it is making no comment at all thereupon except to state that all such proceedings would be taken to their logical conclusion, as per law.

With the aforesaid observations, the application filed by the petitioner seeking withdrawal of the accompanying petition, is allowed.

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In view of the above, this petition stands dismissed as withdrawn.

The aforesaid two affidavits not having been taken on record earlier, are ordered to be taken on record with the petition.

It needs to be noticed that learned counsel for the petitioner has pointed out that though in the affidavit dated 12.03.2021 the SP has stated that a punishment of stoppage of three annual increments with cumulative effect was awarded to the two aforesaid officials in disciplinary proceedings, in the affidavit dated 15.07.2021 it has been stated that the punishment was of

stoppage of two annual increments with cumulative effect.

Obviously, this court need not observe anything on that issue either, as the order passed by the competent authority as regards the punishment imposed, would be a matter of record.

July 20, 2021

dharamvir/

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES/NO

Whether Reportable : YES/NO