

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109/2)

CRM-M-34616 of 2021

Date of Decision: 10.11.2021

Nimrat Kaur Mansahia and others

...Petitioners

Versus

State of Punjab and others

...Respondents

2)

CRM-W-38 of 2021 in

CRWP no.7546 of 2020

Preetinder Singh Mansahiya

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Ms. Ritu Punj, Advocate,
for the petitioner in sr. no.2.
Mr. S.S. Gill, Advocate, (former counsel for the petitioner in
Sr. no.2).
Ms. R.K. Grewal, Advocate, for the petitioner in sr. no.1.
Mr. Preetinder Singh Ahluwalia, Advocate
for the applicant in CRM-W-38-2021.
Mr. Rana Harjasdeep Singh, DAG, Punjab

Amol Rattan Singh, J. (Oral)

CRM-M-34616 of 2021

On 31.08.2021, the following order had been passed by this
court:-

“Case heard via video conferencing.

This case has been taken up out of turn, on the request of
learned counsel for the petitioner as on 26.08.2021 notice of
motion had been issued, confined to the aspect of preservation
of call detail records of the mobile phones of respondents no. 5
to 22.

Learned State counsel submits that he has not received

any instructions in the matter.

Adjourned to 01.09.2021.

Learned State counsel would take positive instructions with regard to the above as to why the call detail records be not preserved, with in any case, a direction issued to the Senior Superintendent of Police, Sangrur, to ensure that the call detail records of the mobile phones of the aforesaid respondents, for the period 01.09.2020 to 31.01.2021, are positively preserved till then.

A copy of the petition be emailed to learned State counsel by learned counsel for the petitioner today itself.”

Thereafter, on 10.09.2021, the SSP, Tarn Taran, was directed to file a detailed reply, annexing therewith the call detail records as were obtained from the phone company concerned for the period from 01.08.2020 to 01.01.2021, in respect of the phone numbers concerned.

After that, as recorded in the order dated 14.09.2021, an affidavit of the SSP, Tarn Taran had been filed in court, with a direction issued to him that a gazetted officer would determine as to whose mobile numbers they were and as to why the mobile company had simply stated “nil” as regards some of the mobile phones.

Subsequently, an affidavit was filed by the DSP, Sangrur, dated 29.09.2021, with today learned counsel for the petitioners submitting that the necessary call detail records having already been preserved, she does not press this petition any longer.

Dismissed as withdrawn.

CRM-W-38-2021 in CRWP no.7546 of 2020

On 13.01.2021, the following order had been passed by this court:-

“Case heard by video conference.

By this application, the applicant (who is stated to be respondent no.5 in the accompanying petition, i.e. the wife of the person who is shown to be the petitioner therein), is seeking that the order dated 23.09.2020 whereby the said writ petition was disposed of by this court, be recalled and that proceedings under Section 340 of the Cr.P.C. be also initiated against the concerned person, who is alleged to have committed perjury as regards the contents of that petition.

Mr. Ahluwalia, learned counsel for the applicant, submits that firstly, the petitioner in that petition, i.e. Preetinder Singh Mansahiya, is shown to be 37 years old whereas actually as per his passport (copy Annexure A-2 with the application), his date of birth is shown to be November 24, 1969, thereby making him above 51 years of age.

He further submits that the marriage of the petitioner therein and the present applicant is shown to be have taken place in 2015 whereas as a matter of fact they had got married prior to 2005 with even a child having been born out of that wedlock in the year 2005.

He further submits that the mother of the petitioner, i.e. the mother-in-law of the applicant, died actually in the year 2016 whereas in the petition her year of death is shown to be 2015.

Learned counsel next submits that as per information obtained under the RTI Act, in fact no representation was filed by the petitioner before the SSP, Sangrur or the SHO, Police Station City, Sangrur, (as was averred in the writ petition), and

in fact the applicant also has obtained the opinion of a handwriting expert who states that the signatures in the petition are not that of Preetinder Singh Mansahiya.

He further submits that the applicants' husband, Preetinder Singh Mansahiya, went missing on 23.08.2020, in respect of which complaints were also made to the police and further, in fact Preetinder Singh Mansahiya is not a person of fully sound mind in as much as the Government Mental Health Institute at Amritsar has certified that his IQ is 71 which is a "border line IQ" with regard to the intellect of any normal person (copy Annexure A-13).

Upon query of this court as regards the bar under Section 362 of the Cr.P.C. on a judgment/final order passed in criminal proceedings being recalled, Mr. Ahluwalia submits that though the accompanying petition has a nomenclature of a "criminal writ petition", however it was one filed under the provisions of Article 226/227 of the Constitution of India simply asking for protection from the police and therefore, it having been disposed of with simply a direction to the SSP to go into the matter as per the representation stated to have been made to him, the said bar would not operate, the proceedings therefore not being criminal proceedings.

Notice in the application.

Mr. Ramdeep Partap Singh, learned DAG, Punjab, accepts notice at the asking of the court on behalf of the respondent State.

Notice be also issued by normal process to counsel for the petitioner in the accompanying petition, i.e. Mr. Satbir Gill, Advocate, as also the non-applicant/petitioner himself and respondent no.4, i.e. Manvir Singh Pandher @ Poppy, with such notices to be returnable on 01.02.2021.

A copy of the petition be e-mailed to learned State counsel today itself by learned counsel for the applicant.

The SSP, Sangrur, is directed to go into the matter and firstly state as to whether or not any representation from the non-applicant/petitioner, Preetinder Singh Mansahiya, was received either in his office or in the office the SHO, Police Station City, Sangrur, prior to CRWP no.7546 of 2020 having been filed in this court on 17.09.2020; and further, as to whether any complaints were found to be made with regard to said person being missing after August, 2020.”

Thereafter, on 26.02.2021, after reproducing the aforesaid order, the following order had been passed by this court:-

“In response thereto “a report by way of an affidavit” of the SSP, Sangrur, has been filed dated 31.01.2021, from which learned State counsel draws specific attention to the contents of paragraphs 4 and 7.

He submits that representations were received by the police from the petitioner on 28.08.2020, 17.09.2020 and 28.09.2020 (though Mr.Randhawa learned counsel for the applicant points to paragraph 7 of the petition that was disposed of, wherein the dates of the complaint are shown to be 12.08.2020 and 16.08.2020).

Learned State counsel further submits that in fact as per the CCTV footage in the petitioners' house, he was seen to have left his house on 23.08.2020 at 5:00 a.m.(by himself), after which he is stated to have been “recovered” on 16.09.2020 and as per his wish (as per the police), he was produced before the Naib Tehsildar, Sangrur (Executive Magistrate), before whom

he stated that he had left home of his own accord and as per his own will.

Mr.Singla learned counsel for respondent no.4 in the petition, seeks time to file a reply to the application.

On their request, adjourned to 05.04.2021.

Mr. Gill, who had appeared for the petitioner on the date when the accompanying petition was disposed of on 23.09.2020, submits that actually he is not in touch with the petitioner at all.

That being so, notice in the application now be issued to the petitioner in the accompanying petition, to be served upon him by normal process, as also, additionally, through the SHO of the Police Station City, Sangrur, with the said notice to be returnable on 05.04.2021.

Naturally, if learned counsel for the non-applicant/petitioner receives instructions from the petitioner as regards this application, in the meanwhile, he will file a reply to the application well before the next date of hearing.”

On 05.04.2021 it had been noticed that Ms. Ritu Punj, Advocate, had appeared for the non-applicant petitioner, with the petitioner also present in court on that date; with Mr. S.S. Gill, learned counsel who had appeared for him at the time when the accompanying petition was filed, also present, with him and Ms. Ritu Punj both having identified the non-applicant petitioner to be Preetinder Singh Manashiya.

On 10.09.2021, the non-applicant petitioner had filed a short reply to the application, which was taken on record.

Today, Mr. Ahluwalia and Ms. Punj, both submit that even as

per the said reply, Preetinder Singh Manashiya has stated that he did not file CRWP no.7546 of 2020, with Mr. Gill, who had filed that petition, however submitting that in fact he had met the said person outside the court room today. He also submits that as per his information from counsel who had referred Preetinder Singh Manashiya to him, that in fact pursuant to the order passed by this court disposing of that petition, the said person also approached the police authorities and got his statement recorded.

Learned counsel has been asked to call the said person inside court, who has subsequently come and has identified himself as Preetinder Singh Manashiya, with all three counsel, i.e. Mr. Ahluwalia, Ms. Punj and Mr. Gill, also identifying him to be the said person.

Upon query put to him as to whether he had filed CRWP no.7546 of 2020, or whether he had approached the learned counsel (Mr. S.S. Gill) to file the petition, he has neither replied in the affirmative or negative and has been in fact evasive in his reply.

It can be stated by this court that he is, at least apparently, not able to answer that question logically, with it thereby seeming that he may not be a person of very high intellect and may be a simpleton.

However, it is made absolutely clear that this court has not made any final observation to that effect and has only recorded its first impression after questions put to that person, i.e. Preetinder Singh Manashiya.

Be that as it may, both counsel appearing for him (Mr.

Ahluwalia and Ms. Punj) submit that the problem actually stems from the fact that he is a man of much wealth and property and is being possibly manipulated by different persons on account of his property, he being a simpleton.

Since, in these proceedings before this court, it is not possible to determine as to whether he was manipulated or not at the stage that CRWP no.7546 of 2020 was filed, and whether he had actually filed it or a different person had filed it, or whether he had been manipulated at a subsequent stage (or at different stages by different persons), no comment at all is made by this court on the merits of this application, which is consequently dismissed, leaving any affected parties to take their remedies as regards any undue advantage taken of Preetinder Singh Manashiya by any person “on any side”, before the competent court/authority concerned.

The above order has been passed with it to be specifically noticed that CRWP no.7546 of 2020 had been disposed of by this court on 23.09.2020, simply with a direction to the SSP, Sangrur, to go into the representation stated to have been filed by Preetinder Singh Manashiya (as contended in that petition), and if any cognizable offence was found to be made out, action as per law would be taken accordingly.

Hence, whether or not any such representation was made, is again not being commented by this court. If Preetinder Singh Manashiya actually approaches any police authorities with regard to any grievance, naturally that would be gone into wholly on the merits thereof, with the

authorities concerned to also have him medically examined from a reputed Govt. hospital in the Department of Psychiatry, before taking any decision on any such representation, to determine as to whether he is of sound mind and able to take any decision independently or not, or is even capable of understanding the true implication of any representation made by him.

As regards any property dispute etc., very obviously in these proceedings, or even in CRWP no.7546 of 2020, this court has made absolutely no comment on that, with any party concerned to obviously avail of their civil remedy as per law.

A copy of this order be placed on the file of the other connected matter too.

10.11.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: Yes