

In the High Court of Punjab and Haryana at Chandigarh

CRWP No. 971 of 2022

Date of Decision: 25.7.2022

Jagdeep Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Inderjit Sharma, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. This Court, on 11.5.2022, had passed hereinafter extracted order:-

“1. In Annexure P-1, names of the offenders concerned exist. However, in reply on affidavit, as meted to the instant petition asking for transfer of investigations into the incident, referred in Annexure P-1, it is unfolded that though, FIR bearing No. 80 of 10.11.2021, has been registered at Police Station Dorangla, but the above FIR has been registered against unknown persons. It is enigmatic that despite in Annexure P-1, the names of the miscreants becoming embodied, yet the FIR (supra) becoming registered against unknown persons. The afore enigma does, prima facie, constitute a valid ground for this Court to construe, that the investigations, as made into Annexure P-1, may not be taint free, and, also this Court becomes contrained, to also further conclude, that the same may be conducted in a partisan manner. However, before ultimately proceeding to pass an order, on the above grounds, rather for transfer of investigations, with respect to the penal occurrence, as embodied in Annexure P-1, to an agency other than the one, which is extantly holding it, this Court deems it fit, and, appropriate to make a direction, upon co-respondent No. 2, to on affidavit, give an explanation about the reasons, prevailing upon the investigating officer concerned, to despite the miscreants concerned, being named in Anenxure P-1, yet his in the FIR (supra) making a narration that it appertaining to unknown persons.

2. The above affidavit be ensured to be filed before this Court on or before the date fixed.

3. List on 25.7.2022.”

2. In pursuance to the above extracted order, the Director General of

Police, Punjab, in paragraph 11 of his affidavit, has made the hereinafter

extracted echoings.

“11. That upon examination of the case, some procedural lapses were noticed in the matter. Accordingly, letter No. 4689/CR-LA-3 dated 14.7.2022 was issued to Inspector General of Police, Border Range, Amritsar to personally look into the matter and submit report, including on the following points:

- i. Why was the FIR registered after a delay of 5 days?*
- ii. Why was the FIR registered on the statement of a police official, when the petitioner/his father were fit and sound to give statement?*
- iii. Why the names of accused persons were not mentioned in the FIR, when father of the petitioner had submitted a complaint to SSP/Gurdaspur clearly mentioning the names of the alleged accused?*
- iv. Details of persons whose CDRs and Tower Locations were obtained.*
- v. Whether the location of the person in CDRs is sufficient to declare him innocent in a criminal case.*
- vi. Whether complaint (Annexure P-1) was considered during the investigation of the case or otherwise: If not, reason there for?*

Inspector General of Police, Border Range, Amritsar was also directed to fix responsibility for the procedural lapses committed in the present case and take necessary remedial measures.”

3. Thereafter, the Director General of Police, Punjab, in paragraph 12 of the affidavit, has made the hereinafter extracted communication:-

“12. That Inspector General of Police, Border Range, Amritsar vide letter No. 23585/BR-Reader dated 18.7.2022 has reported as under:-

- i. There is no valid explanation for delay of five days in registration of the case. Since the information disclosed commission of a cognizable offence, criminal case should had been registered and investigated as per law on the statement of complainant on 5.11.2011 itself. Findings of preliminary enquiry that no firing had taken place on the spot of occurrence by ASI Bhupinder Singh No. 34/GSP does not preclude registration of FIR.*
- ii. There is no valid reason for not registering the present case on the basis of statement of the petitioner or his father.*
- iii. The names of accused persons mentioned in the complaint of Sh. Davinder Singh could not be mentioned in the FIR because the two proceedings took place on the same day i.e. on 10.11.2021.*

On 10.11.2021, ASI Bhupinder Singh No. 34/GSP registered present case FIR No. 80 dated 10.11.2021 under Sections 342, 427, 506, 34 of IPC at Police Station Dorangla, District Gurdaspur on the basis of secret information against unknown persons.

On the same day i.e. 10.11.2021, Sh. Davinder Singh

appeared before SSP/Gurdaspur and submitted a complaint against five alleged accused persons. The said complaint was marked to DSP/Dina Nagar for necessary action and report, vide SSP office Diary No. 2558-Peshi dated 10.11.2021.

Both the proceedings i.e. registration of FIR and submission of complaint by Sh. Davinder Singh to SSP/Gurdaspur took place on the same day. The complaint of Sh. Davinder Singh was not sent to the Police Station Dorangla and therefore, SHO, PS Dorangla had not information regarding the same at the time of registration of aforesaid case FIR No. 80/2021.

iv. DSP/Dina Nagar had obtained Call Detail Records and tower location of the following three alleged accused persons:

- 1. Yuvraj Singh*
- 2. Mandeep Singh @ Maggar*
- 3. Gurjeet Singh @ Jeetu Fauji*

v. Location of a person as reflected in the Call Detail Records is not sufficient to declare him innocent in a criminal case. Additional evidence such as circumstantial evidence/statement of witnesses and/or other supporting evidence is required to reach a definite conclusion.

In the present case, statements of witnesses in support of alibi of the accused have been recorded by DSP/Dina Nagar during investigation of the case.

vi. The complaint submitted by Sh. Davinder Singh, father of the petitioner to SSP/Gurdaspur was considered during investigation carried out by DSP/Dina Nagar.”

4. Bearing in mind the factum, that the Director General of Police, Punjab, after a thorough application of mind, to the above extracted order, as made by this Court on 11.5.2022, has drawn stern action against the police officers concerned, and, has also in paragraph 13 of the affidavit, directed the Inspector General of Police, Border Range, Amritsar, to draw action against the police officials named therein. In consequence, given the thoroughness of application of mind by the Director General of Police, Punjab, to the above made order, and, also his directing the Inspector General of Police, Border Range, Amritsar, to draw action against the errant police officials concerned, besides his directing the Inspector General of Police, Border Range, Amritsar, that the investigation of the petition FIR, should be carried out by an SP rank officer under the direct supervision of SSP, Gurdaspur. Consequently, the

apprehension reared through the instant petition, before this Court, by the complainant, and, as appertains to purportedly unfair, and, tainted investigations, being conducted into the petition FIR, by the hitherto probing police officials, becomes completely mitigated, and, also becomes allayed.

5. Consequently, the petition does not survive, and, is disposed of as such. However, the SIT, constituted for the relevant purpose, is directed to ensure that it completes in a most fair, and, impartial manner, the investigations into the petition FIR, and, that too in a most expeditious manner, and, thereafter file an appropriate report, before the learned trial Magistrate concerned.

6. This Court expresses appreciation qua the keenest application of mind, to the order made by this Court, by the Director General of Police, Punjab.

(SURESHWAR THAKUR)
JUDGE

July 25, 2022
Gurpreet

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