

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

117

CRWP-2774-2022 (O&M)
Date of Decision: 13.07.2022

CHARAN SINGH AND ANR

... Petitioners

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Simranjeet Singh, Advocate
for the petitioners.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

Mr. Amit Bhanot, Advocate
for respondents No.4 and 5.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Mandamus, directing the respondents No.4 and 5 not to harass the petitioners physically and mentally and further to direct the respondents No.1 to 3 to protect the lives and liberty of the petitioners which is in danger at the hands of respondents No.4 and 5.

Taking into consideration the age of petitioners i.e. 69 years and 65 years respectively, a status report was called for by this Court vide order dated 28.03.2022. In compliance of the said order, a status report by way of an affidavit of Rupinderjit Singh, PPS, Deputy Superintendent of Police, Sub Division Rupnagar, District Rupnagar had been filed on behalf of respondents No.1 to 3.

The relevant extract of the said status report is reproduced herein
below:

- “V. That as regards the representation (Annexure P-6) is concerned, it is submitted that the said representation was numbered as No.5 R/A/C dated 17.03.2022 and marked for enquiry to the SHO, PS Singh Bhagwantpura. In pursuance thereof, the SHO, PS Bhagwantpura had initiated the preventive action under Sections 107, 151 Cr.P.C. against the respondents No.4 and 5 vide DDR No.19 dated 06/06/2022 and accordingly, the Kalandra was prepared and presented before the Ld . SDM , Rupnagar.*
- VI. That while the enquiry into the aforesaid representation (Annexure P-6) was underway, the petitioners moved another representation before the SSP, District Rupnagar, which was numbered as 317-Peshi dated 28.04.2022. The said representation was entrusted for enquiry by the SSP, District Rupnagar to the DSP/PBI/ NDPS/Narcotics, District Rupnagar.*
- VII. That in pursuance thereof, the DSP/PBI/NDPS/Narcotics, District Rupnagar associated the petitioner No.1 in the enquiry and recorded his statement. In his statement, the petitioner No.1 has got recorded that the SHO, PS Singh Bhagwantpura has taken action under sections 107, 151 Cr.P.C. against the respondents No. 4 and 5 vide DDR No. 19 dated 06/06/2022, with which, he is completely satisfied and does not want any further action on his complaint and requested for filing his complaint in the office. The true translated copy of the statement of the petitioner No.1 is being annexed herewith as Annexure R-1/T for the kind consideration of this Hon'ble Court.*
- VIII. That in view of the aforesaid statement of the petitioner No.1, the DSP/PBI/NDPS/ Narcotics, District Rupnagar had submitted his report dated 10/06/2022 before the SSP, District Rupnagar with the recommendation to file the*

aforesaid complaints in the office. The SSP, District Roopnagar thoroughly perused and considered the aforesaid report and while agreeing with the same, filed the aforesaid complaint of the petitioners in the office. The true translated copy or the report dated 10/06/2022 is being annexed herewith as Annexure R-2/T for the kind consideration of this Hon'ble Court.”

A perusal of the above, shows that the petitioners have got recorded their statement that they are satisfied with the proceedings that have been initiated by the police and that they do not want any further action on the same.

Today, during the course of hearing, the learned counsel for the petitioners has handed over an affidavit of petitioner No.1 Charan Singh dated 13.07.2022. Surprisingly the petitioner No.1 does not advert to his own statement that has been recorded by the police officials and had chosen to remain silent on the said aspect in the said affidavit. Having not disputed his statement (Annexure R-1/T), it is not open to the Court to doubt that the aforesaid statement has not been got recorded by the petitioner. It seems that the petitioners are now wanting to take advantage of their age to harass the respondents.

The Court would not like to delve further into the matter. Besides, there seems no merit in the case as would reflect any danger or threat to the petitioners. Perusal of the averments contained in the writ petition and the documents appended alongwith the same show that it is a family dispute which is being sought to be deliberately portrayed to seek undue watch over the contesting claims.

The origin of the dispute is from the year 2008 when younger

son of the petitioners is stated to have been pushed out of the house by respondents No.4 and 5 who are the elder son and daughter-in-law of the petitioners. Therefore, daughter of the petitioners alongwith her child also started residing with the petitioners since 2017.

It is alleged that the respondents No.4 and 5 have not been treating the petitioners with proper care and have been maltreating them and their daughter (sister of respondent No.4). A complaint is stated to have been submitted in the year 2017 and a second complaint was submitted in the year 2018. The respondents No.4 and 5 are alleged to be pressurizing the petitioners to transfer the property in their name.

Besides, proceedings under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 have already been initiated in the year 2019 for seeking eviction of respondents No.4 and 5 from the house. The petitioners further claim to have dis-inherited the above respondents. A settlement is thereafter alleged to have been entered between the parties on 08.11.2021 but allegedly the same was not honoured.

There is no evidence to establish any imminent danger or any injury having been caused by the respondents No.4 and 5 to corroborate such apprehension. Mere misbehaviour or maltreatment as also the use of foul language *ipso facto* cannot be considered as threat to lives of the petitioners. A perception in the mind of the petitioners cannot be the parameter for a Court to follow. A decision has to be taken on the basis of the objective material available before a Court to arrive at any such conclusion. The documents appended alongwith the present petition as well as the affidavit of the petitioner that has been filed today in Court fall short of substantiating

any apprehension by any cogent, convincing or tangible material to conclude or to even *prima facie* form an opinion that there exists any threat to the lives of the petitioners.

The present petition is accordingly dismissed.

Any other misc. application(s), if any, also stand(s) disposed of accordingly.

(VINOD S. BHARDWAJ)
JUDGE

13.07.2022
rajender

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