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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.

IOIN-CRM-M-14691-2021 in/and
CRM-M-14691-2021
Date of Decision: 05.08.2022

Rajinder Singh and another

.....Petitioners

State of Punjab

Vs.

.....Respondent

2.

CRM-M-12369-2021 (O&M)

Harjit Singh

.....Petitioner

State of Punjab

vs.

...Respondent

3.

CRM-M-28225-2021 (O&M)

Tralochan Singh and others

....Petitioner

vs.

State of Punjab and others

....Respondents

4.

CRM-M-691-2021 (O&M)

Gopal Singh

...Petitioner

vs.

State of Punjab and others

...Respondents

5.

CRM-M-41165-2021 (O&M)

Gopal Singh

...Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vaibhav Sehgal, Advocate,
for the petitioners
(in CRM-Ms-14691, 12369 and 28225 of 2021)

Mr. Prabhjot Singh Waraich, Advocate,
for the petitioner (in CRM-Ms-691 and 41165 of 2021) and
for the complainant
(in CRM-Ms-14691, 12369 and 28225 of 2021).

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

Mr. Munish Kapila, Advocate, for respondent no. 12
(in CRM-M-28225-2021).

AMOL RATTAN SINGH, J. (ORAL)

IOIN-CRM-M-14691-2021

The case file has been put up by the Registry in view of the fact that in the order passed on the last date of hearing, i.e. July 21, 2022, the date given at the end of the order has inadvertently been written as January 21, 2022, instead of July 21, 2022. The correction has been made in the order by pen.

In view of the above, the said order, which has already been uploaded on the internet, be got deleted and the same be substituted with the corrected order, mentioning the correct date, i.e. July 21, 2022.

CRM-M-28225-2021

This petition has been filed under the provisions of Section 482 of the Cr.P.C. for issuance of directions to respondents no. 2 to 4 to comply with the instructions dated 01.04.2008 (Annexure P-18) and 24.05.2009 (copy Annexure P-19), and to not initiate parallel/multiple inquiries, as investigation stands concluded in the case bearing FIR No. 108, dated 17.07.2020, registered at Police Station Khanna City-II, District Ludhiana, alleging therein the commission of offences punishable under the provisions

of Sections 341/323/506/34 (with Section 308 thereof having been added later after deleting Section 307 thereof as per 'Zimini' no. 14), as the aforesaid instructions dated 01.04.2008 and 24.05.2009 prohibit multiple inquiries and instructions have been upheld after interpretation by this court vide its judgment dated 12.01.2009 passed in CRM-M-18244-2008 (copy Annexure P-20).

In terms of the last order dated 21.07.2022, an affidavit dated 03.08.2022, executed by the Assistant Inspector General of Police, Litigation, Bureau of Investigation, Punjab, has been filed in court today, which is ordered to be taken on record.

From the aforesaid affidavit, learned State counsel points to Annexure R-2, which is a copy of 'file notings' referring to the orders passed in this petition; and with the last part of the typed file noting reading as follows:-

“In view of the above order dated 23.05.2022 of the Hon'ble High Court, the file may submitted to DGP, Punjab, for ex-post facto approval of the order passed by the then Director, BOI, whereby representation of Sukhdeep Kaur was entrusted for examination to AIG/Investigation, BOI (See F/X and para 4 above).”

Thereafter, the matter was seen to have been put up to the DGP, Punjab, who, as per the instructions of learned State counsel, made a noting as follows:-

“Para 8 approved”, with his initial/signature dated 01.02.2022 seen below that noting.

Learned counsel for the petitioner therefore submits that the DGP obviously did not apply his mind to the subject and only approved of the Director Bureau of Investigation looking into the matter in view of various orders passed by this court.

Learned counsel for the complainant on the other hand submits that though that 'technically may be correct' however, even the noting made by the IGP, Ludhiana Range, for further inquiry/re-inquiry after the initial inquiry had already been made upon a complaint filed, would also be found to be similar.

He further submits that the complainant suffered an injury on his head at the hands of the petitioners and being 78 years old, the issue in the matter is as to whether the injury would amount to an offence punishable under the provisions of Section 307 or 308 of the IPC and consequently, the appropriate authority as this court considers it fit may be directed to go into that basic issue.

Mr. Sehgal, learned counsel for the petitioners (accused), on the other hand submits that as per the investigation report approved by the IGP, Ludhiana Range, in fact the injury itself was a fabricated one and consequently, no further investigation is required.

Looking at the aforesaid facts, in the opinion of this court further pendency of the petition only on the issue of the correct procedure followed or not followed by the investigating agency in firstly ordering the second inquiry and thereafter another inquiry/investigation by the Director Bureau of Investigation, would serve no purpose; and therefore exercising

jurisdiction under Section 482 of the Cr.P.C. it is directed by this court that the Director Bureau of Investigation should go into the matter thoroughly and examine it from all aspects, including the reports earlier filed, as also the medical evidence presented by both sides and thereafter come to a conclusion as to whether any offence was made out; and if so under what provision of law, and consequently, take the proceedings in the FIR to their logical conclusion.

The petition is disposed of with the aforesaid directions.

CRM-Ms-691 and 41165 of 2021

Vide these petitions also, fair investigation in the matter is sought.

Thus, with the order hereinabove passed, these petitions are also disposed of in the same terms.

CRM-Ms-14691 and 12369 of 2021

By these petitions, the petitioners seek the concession of 'pre-arrest bail' in the context of the same FIR registered at Police Station Khanna City-II, District Ludhiana.

An affidavit on behalf of the State already having been filed earlier that the petitioners' custodial interrogation is not required, therefore, in view of the ratio of the judgment of the Supreme Court in **MC Abraham vs. State of Maharashtra** (2003) 2 SCC 649, without making any comment whatsoever on the actual merits of the case, the petitions are allowed, with the order 09.04.2021 passed in CRM-M-14691-2021, and the one dated 17.03.2021 in CRM-M-12369-2021, admitting the petitioners to interim bail, are made absolute.

However, it is made clear that if upon further inquiry/investigation by the Director Bureau of Investigation, the custodial interrogation of the petitioners is required for any reason, naturally, appropriate proceedings in that regard would be initiated, which (again obviously) would be considered on their own merits.

A photocopy of this order be placed on the file of the other connected cases.

August 05, 2022	(AMOL RATTAN SINGH)
nitin	JUDGE
Whether speaking/reasoned	Yes
Whether Reportable	Yes