

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24473-2016 (O&M)
Reserved on : 25.07.2022
Date of decision: 08.08.2022

Jagtar Singh

...Petitioner

Versus

Charna Singh and another

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. A.S. Syan, Advocate for the petitioner.

Mr. B.S. Jatana, Advocate for respondent No. 1.

Mr. Harbir Sandhu, AAG Punjab.

HARNARESH SINGH GILL, J.

The petitioner seeks quashing of complaint No. 240 dated 04.09.2013, under Sections 171(C), 171(E), 171(F), 171(G), 171(I), 166, 167, 191, 192, 193, 196, 197, 463, 465, 468, 470 IPC read with Section 34 IPC and the order dated 12.05.2015 passed by the learned Judicial Magistrate 1st Class, Samana, whereby the petitioner was summoned under Sections 171(C), 171(E), 171(F), 171(G), 171(I), 166, 167, 191, 192, 193, 196, 197, 465, 468 IPC along with all the consequential proceedings arising therefrom.

Learned counsel for the petitioner submits that on 03.07.2013, the petitioner was deputed as a Presiding Officer at Booth No. 79, Village Hariau Kalan, Tehsil Patran District Patiala, during the Gram Panchayat Elections; that post peaceful completion of the polling and counting of the votes, in accordance with law, the petitioner prepared the result at 8.15 PM in Form No. 9 and had handed over the same to the Returning Officer; that four candidates i.e. Kiranpal Kaur, Ajaib Singh, Kala Singh and Bhagwan Kaur, contested the elections; that Ajaib Singh was polled the highest votes

and that he was declared as a winner. It is further submitted that upon having been declared as winner, the supporters of Kiranpal Kaur, had raised objections and when S.B. Chauhan, Deputy Manager Production, Markfed Milk Plant, Patiala-cum-Supervisory Officer Election Duty, came on the spot, he had been kidnapped by the opposite party/supporters of Kiranpal Kaur (respondent No. 1-Charana Singh-Ex. Panch, was also involved therein) and forcibly obtained in writing from S.B. Chauhan that Kiranpal Kaur, had won the Election, qua which said S.B. Chauhan, got registered a criminal case bearing FIR No. 196 dated 27.07.2013, under Sections 353, 186, 332, 342, 148, 149 IPC, at Police Station Patran, District Patiala, against the accused persons, including respondent No.1.

Learned counsel for the petitioner further submits that during the pendency of aforesaid FIR No. 196 dated 27.07.2013, respondent No. 1 filed a criminal complaint under Sections 171(C), 171(E), 171(F), 171(G), 171(I), 166, 167, 191, 192, 193, 196, 197, 463, 465, 468, 470 IPC read with Section 34 IPC, in the Court of the learned Judicial Magistrate 1st Class, Samana, stating therein the Ajaib Singh was wrongly declared as a Sarpanch of the village Hariau Kalan, under the pressure of the State Government and that the same was challenged before the Election Tribunal (Deputy Commissioner, Patiala), whereas later on S.B. Chauhan, Supervisory Officer, had issued the certificate of victory in favour of Kiranpal Kaur.

It is further submitted that as noticed above, the learned Judicial Magistrate 1st Class, Samana, summoned the petitioner vide order dated 12.05.2015, but no ground was found by the said Court to summon S.B. Chauhan, the then Supervisor in the election duty.

Still further, it is argued that the duties of a Presiding Officer, are defined in Section 21 of the Punjab State Election Commission Act, 1994, whereas Section 59 of the Act deals with the

fresh poll in case of destructions etc. of ballot boxes and Sections 66 to 72 deal with the counting of votes. It is, thus, argued that there was no irregularity or illegality in the election process and had there been any, the recourse to the provisions of the Act, ought to have been taken by the authorities concerned.

While referring to the Election Petition filed by Kiranpal Kaur, which was allowed by the Presiding Officer, Election Tribunal Samana, District Patiala, vide order dated 11.12.2013 and election of Ajaib Singh to the post of Sarpanch (SC) of village Hariau Kalan Tehsil Patran, was cancelled and re-election for the post of Sarpanch was ordered, it is submitted that the said order was set aside by a Coordinate Bench of this Court vide order dated 14.02.2018 in FAO-148-2014- Ajaib Singh Vs. Presiding Officer, Election Tribunal, Samana and others. It is, thus, submitted that even on this ground, the petitioner indictment and his consequential summoning by the trial Court, is not tenable in the eyes of law.

On the other hand, learned counsel appearing for the complainant submits that while being deployed as the Presiding Officer, during the Panchayat Elections – 2013, the petitioner had committed various grave irregularities, wherein the sealed boxes were reopened that too in the absence of Kiranpal Kaur; that the Sub-Divisional Magistrate, Patran, in his inquiry report had found the petitioner guilty; that the statement of S.B. Chauhan, Supervisory Officer Election Duty, was also recorded in the said inquiry proceedings; that the summoning order dated 12.05.2015, was passed by the learned Judicial Magistrate 1st Class, Samana, after recording the statements of Charna Singh, Lal Singh, Tarsem Chand and the attested copy of FIR No. 196 dated 27.07.2013 along with other documents, was proved by HC Satnam Singh. It is, thus, submitted that there is no illegality in the summoning order passed

by the trial Court, against the petitioner.

I have heard the learned counsel for the parties and have also gone through the documents on record.

A perusal of the contents of FIR No. 196 dated 27.07.2013 got registered by S.B. Chauhan, Supervisory Officer in the elections, he reached at the spot at 9.00 p.m. on having received a call from the staff and when he sought information from the petitioner, the latter told him that 31 ballot boxes were misplaced and thereafter, the recounting was done, whereas it is the stand of the petitioner that he had prepared the election result at 8.15 p.m. in Form No. 9 and handed it over to the Returning Officer. As per the averments contained in the complaint, the SDM Patran conducted an inquiry into the matter and in his report, he had found the petitioner guilty and that the said inquiry was based on the statements made by Tarsem Chand, agent and S.B. Chauhan, Supervisor in the election duties and that in order to cover up the illegalities on the part of the elections staff, S.B. Chauhan had got FIR No. 196 dated 27.7.2013 registered against the complainant and others.

The petitioner has enclosed with the present petition as Annexure P.5, the writing dated 11.03.2014 given by S.B. Chauhan. In the said writing, he clearly says that earlier Kiranpal Kaur was declared as winner, in the presence of Agent Tarsem Chand, but later on, re-counting was done in the absence of another party, whereas it ought to have been done in the presence of both the parties and that the said action was illegal. The petitioner alleges that the said writing was obtained by force.

The questions, inter-alia, whether the recounting was done in the absence of the earlier declared winner (Kiranpal Kaur); whether any permission of the authorities was taken for such recounting and/or whether the same was done within the elections

duties hours, can only be determined on the basis of evidence to be led before the trial Court. Still further, the veracity of the writing given by S.B. Chauhan, as referred to above, can also be determined only on the basis of evidence.

Besides, reliance of the petitioner on the dismissal of FAO-148-2014 vide order dated 14.02.2018 passed by a Coordinate Bench of this Court, is also of no help to the petitioner. I have gone through the said order. A perusal thereof, would show that the FAO was allowed only for the reason that the election petition was filed by an Advocate and not by the candidate and not on the merits.

Thus, the petitioner has failed to point out that initiation of criminal proceedings against him, is an abuse of process of law, which may warrant an interference by this Court under Section 482 Cr.P.C.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

08.08.2022
Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No