

111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-3929-2022

Date of decision: 24.08.2022

Shakuntla Devi

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Munish Puri, Advocate
for the petitioner.

Mr. Mavpreet Singh, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

This petition has been filed under Article 226 of the Constitution of India for issuance of writ in the nature of *mandamus* to protect the life and liberty of the petitioner and her family members at the hands of private respondents and further to direct the official respondents to initiate appropriate proceedings against the private respondents for alleged incident dated 06.03.2022.

In terms of order dated 16.05.2022, status report dated 25.07.2022 has been filed by way of an affidavit of Sh. Sumeer Singh, PPS, Deputy Superintendent of Police, Sub Division Rural, Pathankot District Pathankot on behalf of respondents No.1 to 3-State.

The petitioner had submitted complaint dated 09.03.2022 and para 5 of the said complaint reads as under :-

“That on 06.03.2022 complainant along with her husband Sh. Raj Kumar, Jatinder Singh and her daughter-in-law Gurpreet Kaur were sleeping inside house at village Jakho Lahri, Tehsil and District

Pathankot. At about 5.45 AM, on 03/06/2022 the complainant heard loud noise at her entrance gate Sh. Raj Kumar went out side to inquire the matter. All the accused persons who were standing outside the entrance gate started shouting at Raj Kumar to open the gate and all of them started pushing the gate Sh. Raj Kumar threaten by Sh. Bodh Saini to open the gate Sh. Raj Kumar opened the gate, Sh. Bodh Saini forcibly pushed the Raj Kumar. Raj Kumar fell down and was not able to get up. Bodh Saini raised lalkara "INA NU CHOK KE GADI VICH SUTTO THE THANE LE JAYO". On hearing the lalkara Bodh Saini, Suresh Saini, Neelam Saini, Priyanka Saini, gave kick blow over the closed door of Jatinder Singh. All of them forcibly brooked the bolt and entered the room R1 shown in the site plan. Jatinder Singh. Jatinder Singh and his wife he Gurpreet Kaur were in night dress and were on the bed. Jatinder Singh was dragged out of the bed by Suresh Saini, ASI Ram Lal and was given beating and he was caught from the hairs by ASI Ram Lal and dragged in the court yard. Meanwhile Bodh Saini and Varinder Singh forcibly dragged Gurpreet Kaur out of the bed by catching her from the t-shirt. Bodh Saini caught her from her hairs and dragged her in the court yard, during her pushes her t-shirt was torned. ASI Ram Lal and Bodh Saini forcibly, illegally loaded Jatinder Singh and Gurpreet Kaur in bolero car bearing number PB-35-AG-9735 owned by Bodh Saini. The complainant tried to rescue the Jatinder singh and Gurpreet Kaur from the above said, person she was caught holding from her hairs and pushed down on the ground. Priyanka gave foot blows upon her. Gurpreet Kaur and Jatinder Singh were forcibly and illegally taken in a private bolero car bearing number PB-35-AG-9735 owned by Bodh Saini. The car was driven by Varinder Singh, who is brother-in-law of Bodh Saini at about 6:15 AM. The bolero car was taken by Varinder Singh, Bodh Saini, Suresh Saini, ASI Ram Lal at police station Sadar Pathankot at about 6:30 AM . The incident was witnessed by many inhabitants who gathered at the spot. Both Jatinder Singh and Gurpreet Kaur were put inside the lockup. The S.H.O i.e. accused no. 8 was informed by ASI Ram Lal that they have brought the Jatinder Singh and Gurpreet Kaur at police station and are in police lockup. The S.H.O accused number 8 was directing the other accused persons the time of incident the S.H.O was post of the conspiracy hatched by the other accused, and the whole incident was committed under his instruction

ASI Ram Lal and Sudesh Kumar S.H.O were not performing official duty, rather they had abused the process of law. The complainant along with Balbir Singh after great persuasion at about 11:00 AM was allowed to go inside the police station. That accused no. 1 and 2 were asking ASI Ram Lal not to let out both Gurpreet Kaur and Jatinder Singh. The relatives of the complainant and Balbir Singh along with respectable reached at police station at 7:00 Am in the morning and after great persuasion and on repeatedly request ASI Ram Lal at about 11:00 Am brought out Jatinder Singh and Gurpreet Kaur from police lockup (Menu). It is pertinent to mention here that Gurpreet Kaur was also locked inside police lockup along with Jatinder Singh and one more unknown male person. They 32 were informed by the ASI Ram Lal that F.I.R no . 14 dated 02/03/2022 has been registered against them. The accused does not. 7 i.e. ASI Ram Lal after seeing the issue getting out of his control got signature on surety bonds and allowed complainant and Balbir Singh to take Jatinder Singh and Gurpreet Kaur along with them.”

In para 4 of the status report, it has been averred as under:-

“That Sh. Jagdish Raj PPS Deputy Superintendent of Police (Rural), Pathankot conducted a thorough enquiry by associating both the parties, eye witnesses, Inspector Sudesh Kumar, ASI Ram Lal and after inquiring into facts, statements & record concluded that Raj Kumar (husband of petitioner) and Jagdish Kumar (father of respondents No. 4 & 5) are real brothers and are owners of 11 acres of land each and there arose a dispute between parties qua 4 acres of land which abuts main Pathankot - Amritsar road and a compromise was arrived at and both the parties divided 2-2 acres amongst themselves and in November 2021, family of respondent No.4 started constructing a Dhaba with the name of 'Family Hut' & qua which civil suit was filed and Ld. Civil Court vide order dated 15.02.2022 directed parties to maintain status quo and during the ongoing dispute one FIR No.14 dated 02.03.2022 U/S 323/283/506/34 IPC registered Police Station Sadar, District Pathankot against Raj Kumar son of Nand Lal, Jatinder Singh son of Raj Kumar and Gurpreet Kaur wife of Jatinder Singh and during investigation officer namely ASI Ram Lal, in furtherance of carrying investigation of case on 06.03.2022 around 6:30 AM along with

police which included lady constable namely Sonam 1027 / PTK left from police station and on reaching house of petitioner accused Jatinder Singh & his wife Gurpreet Kaur were informed about registration of FIR and accused informed that they are going out of station for a month, on their asking they were arrested & joined investigation and since offenses were bailable on presentation of sureties, Jatinder Singh and Gurpreet Kaur were released on bail and no private person was accompanying police party at that time and no truth had surfaced in the allegations that Jatinder Singh & his wife Gurpreet Kaur were forcibly put in a private vehicle or they were detained in lock-up. Moreover, in the complaint, petitioner had mentioned that her son & daughter-in-law were detained in lock-up, whereas, in her statement recorded during inquiry, petitioner had stated her son & daughter-in-law were made to sit in police station without any reason for 4 hours and it was clearly evident that from the record that present complaint was made out of revenge and counter blast to FIR registered against husband, son & daughter-in-law of petitioner, present complaint has been made by leveling false allegations and Enquiry Officer (DSP, Rural, Pathankot) recommended for consigning the complaint/representation, complaint/representation was found to be devoid of truth vide report dated 14.04.2022.

Learned counsel for the petitioner submits that there is violation of Section 41-A Cr.P.C. which provides that the police officer shall in all cases where the arrest of the person is not required under the provisions of Sub Section 1 of Section 41, issue a notice directing person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence to appear before the competent authority or at such other place as may be specified in the notice.

He submits that in the present case, no notice was issued by the official respondents to the petitioners and a raid was conducted and they were arrested and the alleged offences being bailable, they were enlarged on

bail by the police authorities.

From the perusal of the status report, it appears that the inquiry officer has tried to shield the police officials. Therefore, in this view of the matter, the Director General of Police, Chandigarh is directed to look into the matter and examine the case and pass a speaking order after affording an opportunity to the petitioner within a period of two months from the date of receipt of certified copy of this order.

The petition stands disposed off accordingly.

24.08.2022
Neha

(NAMIT KUMAR)
JUDGE

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