

CRWP No.6237 of 2020 (O&M)

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

Sr. No.235

CRWP No.6237 of 2020 (O&M)

Date of Decision: 16.03.2022

Gurwinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: None for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab.

Mr. Munish Raj Chaudhary, Advocate
for respondents No.6 to 9.

SANT PARKASH, J.(ORAL)

The instant petition has been filed under Article 226 of the Constitution of India seeking issuance of directions to official respondents to protect the life and liberty of the petitioner at the hands of private respondents No. 6 to 9; not to implicate the petitioner in any false case at the behest of said private respondents; to transfer the investigation in case FIR bearing No.189 dated 18.05.2020 (Annexure P-1), FIR No.221 dated 14.06.2020 (Annexure P-4) and FIR No.236 dated 02.07.2020 (Annexure P-11) to any independent agency for conducting impartial investigation; to decide the representation dated 25.06.2020 (Annexure P-7) and further to add offence under Section 307 IPC in FIR No.221 dated 14.06.2020 (Annexure P-4) keeping in view the intention of respondents No.6 to 9 to give injuries to the petitioner and subsequently, injuries suffered by the petitioner at their hands.

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Brief facts leading to the present case are that father of the petitioner are five brothers and grand mother of the petitioner died few month ago leaving behind 7 Bighas of land owned by her and the partition of the same is yet to be effected between family members. Respondent No.6 who is the real uncle of the petitioner lodged an FIR No.189 dated 18.05.2020 (Annexure P-1) against the petitioner and his father Malkit Singh on the alleation that both of them abused and gave beatings to respondent No.6 after a quarrel took place between them over a family property matter. Petitioner moved a representation dated 23.05.2020 (Annexure P-3) to SSP Sangrur for reinvestigating the matter requesting that the alleged lilegations in the aforesaid FIR are false and fabricated. On 14.06.2020, respondents No.6 to 9 started irrigating the land belonging to the late grand mother of the petitioner, which is yet to be partitioned/distributed and when the petitioner raised an objection, he was given beatings by the said respondents. The petitioner was admitted to Rajindra Hospital, Patiala and he received a fracture on the outer table of frontal bone. Petitioner lodged an FIR No.221 dated 14.06.2020 (Annexure P-4) against respondent No.6. As none of the police officials visited the said hospital to obtain opinion of the doctor with regard to the injuries sustained by the petitioner, the latter moved another representation dated 25.06.2020 (Annexure P-7) for adding offence under Section 307 IPC and also alleged that respondent No. 4 is demanding money from him to take any action on the said representation. Whent the petitioner failed to get any justice, he moved a representation dated 01.07.2020 (Annexure P-9) to Chief Minister of Punjab for adding offence under Section 307 IPC. On the very next date i.e. 02.07.2020, another FIR No.236 dated 02.07.2020 (Annexure P-11) was lodged against the petitioner on the allegations that petitioner and his cousin namely Harwinder Singh @ Harry

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abused respondent No.6 and the petitioner gave a blow on his head with a sharp weapon/knife etc.

It is pertinent to mention here that no one put in appearance on behalf of the petitioner on last three occasions i.e. on 18.08.2021, 22.09.2021 and 14.01.2021. Same is the situation today as well. Even a perusal of order dated 14.01.2021 clearly depicts that the petitioner does not seem interested in pursuing his case. For reference, the said order is reproduced hereunder:-

“On 18.08.2021 and thereafter on 22.09.2021, there was no representation on behalf of the petitioner.

Today again, no one has joined the virtual proceedings on behalf of the petitioner.

Continuous absence of the petitioner from the proceedings prima facie shows that the petitioner is not interested in pursuing the present petition, still in the interest of justice, adjourned to 16.03.2022.

Registry is directed to inform the next date of hearing to the learned counsel for the petitioner and in case, on the next date of hearing, no one appears on behalf of the petitioner, appropriate orders on the prayer of the petitioner will be passed.”

However, after having appraised the file and records available on record, this Court finds that there is no substance in the prayer made on behalf of the petitioner by way of instant petition.

Learned State counsel has also opposed the prayer of the petitioner made in the instant petition and has submitted that in all three FIRs registered against the petitioner as well as against respondents No.6 to 9, challans have been presented and there is no reason to harass or implicate the petitioner on the behest of respondents No.6 to 9 by official respondents

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Learned counsel for respondents No.6 to 9 also rebuts the pleas taken in the instant petition and submits that the petitioner has filed the present petition without any basis or cogent reason as he neither in his FIR No.221 dated 14.06.2020 mentioned that the accused persons inflicted injuries with the intention to kill him nor on the basis of his MLR report, offence under Section 307 IPC was made out.

Heard.

A perusal of the reply filed on behalf of the State would reveal that FIR No.189 dated 18.05.2020 (Annexure P-1) was registered against Malkit Singh (father of petitioner) and the present petitioner-Gurwinder Singh on the basis of statement of Bhagwan Singh @ Bhana (real uncle of petitioner) on account of quarrel that took place between both the parties on family property matter and the complainant having received injuries at the hands of the present petitioner. The MLR of injured Bhagwan Singh has been placed on record vide Annexure P-12, the relevant part of which is reproduced as under:-

Sr. No.	Injuries	Marked	Injury Number
1	Incised wound 3x0.2cm on the forehead right side. Fresh bleeding present.	Yes	1
2	C/o pain in left leg. Adv. Xray.	Yes	2
3	C/o pain in left knee joint. Adv. Xray	Yes	3

Nature of injuries (Simple, Grevious, Dangerous or pending for observation

1. Simple
- 2,3 kept for xray

Probable duration of injury
1 within 12 hours 2,3 can not be certained
Kind of weapon used (Sharp, Blunt, Firearm, Fire, Poison etc.)
1. Pointed sharp 2,3 blunt

The aforesaid reproduced MLR makes it evidently clear that total three injuries were inflicted on the person of injured. Out of the said injuries, two injuries were reported as blunt and kept for X-ray. On 19.05.2020, nature of said two blunt injuries was obtained, wherein injury No.1 was declared to be grievous having been caused with an iron rod, which has been attributed to the present petitioner. The other injury was however, simple in nature. On the basis of grievous injury, offence under Section 325 IPC was added on 19.05.2020. Moreover, the iron rode used in committing the offence could not be recovered as the petitioner has destroyed the same and in this way, he tried to remove the evidence, as a result of which, offence under Section 201 IPC was added on 22.05.2020. However, Malkit Singh and the present petitioner were released on bail, challan against both of them was presented before learned trial Court on 09.09.2020.

It is further on record that another FIR bearing No.236 dated 02.07.2020 (Annexure P-11) has also been registered against the present petitioner on the allegations that the petitioner along with his cousin namely Harwinder Singh @ Harry attacked respondent No.6 with an intention to kill him as the latter had lodged the FIR No.189 dated 18.05.2020 against the

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petitioner. As per the instructions received from the concerned Investigating Officer, the petitioner did not join the inquiry in the said FIR No.236 dated 02.07.2020.

It is further submitted in the aforesaid reply that petitioner prayed that offence under Section 307 IPC be added in FIR No.221 dated 14.06.2020 (Annexure P-4) registered by him against respondents No.6 to 9, keeping in view the injuries suffered by petitioner at the hands of said respondents and in this regard, it has been submitted that as per MLR No.PS/89/2020, six injuries as blunt were reported, out of which injury No.1 was kept for surgical opinion and injuries No.2 to 6 were declared as simple in nature. On 04.07.2020, the doctor has given the nature of injury, which reads as under:-

“04.07.2020

MLR No.PS/89/2020 Gurwinder Singh age-26/M

CT HEAD Reg.No.26864 dated 14.06.2020

Report show- 1. Fracture of outer table of frontal bone seen.

2. Old headed fracture of L frontier bone extending to involve read of L orbit seen.

Hence nature of injury No.1 is grievous in nature. Rest 2 to 6 is simple in nature.”

On the basis of said report, offence under Section 307 IPC was not found to be made out, rather offence under Section 325 IPC was found to be made out and the same was added on 04.07.2020.

It has further been mentioned in the reply of the State that on 02.07.2020, the Investigating Officer requested the Medical Officer, Rajindra Hospital, Patiala to supply medical report regarding surgical opinion and the doctor gave opinion in writing as follows:-

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“Pt. name= Gurwinder Singh CR=26864 Age 26/M S/o Malkit Singh. Neuro Surgery opinion could not be done as the Pt. left against medical advice (LAMA) on 15.06.2020 without even having signed LAMA consent.”

Moreover, in the said FIR No.221 dated 14.06.2020, the petitioner did not state that the accused had inflicted injuries with the intention to kill him and the challan in the said FIR was presented before learned trial Court on 15.09.2020.

An inquiry was also conducted in the representation (Annexure P-9) moved by the petitioner by the then DSP, Sub Division, Dhuri and the said Inquiry Officer in the concluding para of the inquiry report No.480/528/5P/DSP dated 30.07.2020 recorded that from the inquiry conducted so far, perusal of the case file and the statements of witnesses recorded during inquiry, the said FIR was found to have registered under proper sections of law. No truth has been found in allegation of demanding money by the police official and the said inquiry report was given case diary dated 29.09.2020 after being approved by SSP, Sangrur.

In view of the stand taken in the reply and further considering that there is no representation on behalf of the petitioner to refute the averments of the written reply, the present petition is hereby dismissed being devoid of merit.

**(SANT PARKASH)
JUDGE**

16.03.2022
Avin/Maninder

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No