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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29888-2021

Date of Decision: January 10, 2022

Baldev Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.K.B.S.Mann, Advocate for the petitioner.

Mr.Rakeshinder Singh Sidhu, AAG, Punjab.

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RAJESH BHARDWAJ, J.

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The petitioner has approached this Court praying for seeking a direction to respondent Nos.1 to 3 for taking legal action against respondent Nos.4 to 12 for illegal confinement of his son in police custody by respondent Nos.4 to 10 from 22.02.2021 till 26.02.2021 in FIR No.18, dated 24.02.2021, under Sections 354-A/354-C/354-D/509 IPC, Sections 67(A), 67(B) of Information and Technology Act, 2000 and Section 12 of Protection of Children from Sexual Offences Act (Amended), 2012, 2019, registered at Police Station Kotbhai, District Sri Muktsar Sahib.

Counsel for the petitioner contends that son of the petitioner, namely, Gurbhej Singh @ Bheja is serving in Army and was posted at Srinagar. The wife of petitioner's son was expecting 2nd child and on

22.02.2021, son of the petitioner had gone to Gaggu Guha for purchasing the necessary household articles. In the evening when son of the petitioner was returning back and was present at the bus stand of Gaggu Guha, then some unidentified police officials apprehended him and took him to some undisclosed place. The petitioner alongwith other family members kept on searching him but failed. They went to District Sri Muktsar Sahib and visited the police Station of CIA staff, Sri Muktsar Sahib, to know about the whereabouts of son of the petitioner but no information was found. On 27.02.2021, a phone call was received from Police Station Gidderbaha and the petitioner was informed that his son Gurbhej Singh was arrested in the above-mentioned FIR. Son of the petitioner filed an application for grant of regular bail, which was granted by the Additional Sessions Judge, Sri Muktsar Sahib, vide order dated 19.03.2021. The investigation was completed and the challan was presented under Section 173 Cr.P.C. He contends that as per the memo of arrest dated 26.02.2021, it has been alleged that the petitioner was arrested on 26.02.2021. It is contended that son of the petitioner was in custody since 22.02.2021 but he had been illegally shown to be arrested on 26.02.2021.

Notice of motion was issued and the State was directed to file the status report, which has been filed by way of affidavit of Narinder Singh (PPS), Deputy Superintendent of Police, Sub Division Gidderbaha, Sri Muktsar Sahib.

Learned State counsel has vehemently opposed the submissions made by the counsel for the petitioner. He has drawn attention of the Court to the status report filed by the State. It has been contended that the petitioner has concealed the material facts and has not approached the Court

with clean hands. It is submitted that he earlier filed a representation dated 07.04.2021 with the Senior Superintendent of Police, Sri Muktsar Sahib, which was marked to DSP(PBI), Sri Muktsar Sahib. The matter was thoroughly enquired into and it was found that there was no truth in the representation. He has further submitted that after thorough investigation, the challan was presented before the Court of competent jurisdiction on 23.04.2021. He submits that this Court vide order dated 30.07.2021 issued the notice of motion with a direction to file the status report. In pursuance to the same, the SIT was constituted vide order dated 17.08.2021 headed by SP(Investigation), Sri Muktsar Sahib with DSP, Sub Division, Gidderbaha and SHO, P.S.Kotbhai, as its members. A detailed investigation was conducted by the SIT, relevant extract of which reads thus:-

“The Special Investigation Team on perusal of police file in FIR No.18, dated 24.02.2021 under Sections 354A, 354-C, 354-D, 509 IPC, Sections 67A/67B IT Act, Section -12 of POCSO Act, Police Station Kotbhai and during investigation recorded statements and available record has found that allegations levelled by petitioner Baldev Singh in his petition No.CRM-M-29888 of 2021 filed before the Hon'ble Punjab and Haryana High Court are totally false and baseless.”

Heard.

After hearing both the parties, it is apparent that grievances of the petitioner had been taken into consideration on the earlier occasions also and after issuance of the notice by this Court, a SIT again investigated the allegations made by the petitioner. The allegations are totally disputed questions of facts. The challan already stands presented before the trial Court. In overall facts and circumstances of the case, prima facie the Court

constituted team and no truth could be found in the same.

However, the petition is disposed of with liberty to the petitioner to avail his remedies before the trial Court as available to him under the law.

January 10, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |