

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

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CRM-M-31471-2021(O & M)

Date of decision:03.02.2022

RANDHIR SINGH

...petitioner

V/S

STATE OF PUNJAB AND ANR

...respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Ms.Harmeet Kaur, Advocate
For the petitioner

Amol Rattan Singh, J. (Oral)

Case heard by video conferencing.

By this petition, the petitioner seeks directions for 'issuance of proceedings' against respondent no.2 'for furnishing á false/wrong speaking order' before this Court in COCP no.1128 of 2021 on 1.05.2021.

On 17.11.2021, the following order had been passed by this Court:-

Case heard by way of video conferencing.

Vide this petition, the petitioner has sought directions for 'issuance of proceedings' against respondent no.2 for furnishing false/wrong speaking order before this Court in COCP no.1128 of 2021 on 1.05.2021; or for issuance of any other order or directions which this Court may deem fit in the facts and circumstances of the present case.

Firstly, it is to be noticed that the speaking order shown to be passed by respondent no.2 (SSP, Gurdaspur) on 17.05.2021 (Annexure P-5), states that "respondent no.4 (in CRWP No.1973 of 2021) had filed a civil case in the Ld. Civil Court regarding illegal encroachment".

Learned counsel submits that in the civil suit filed by the said respondent (Ashwani Kumar), the petitioner's brother and

father were impleaded as defendants therein and not the petitioner; and consequently, the said speaking order is misleading and infact amounts to perjury, as the said speaking order was annexed with the reply filed by the SSP, Gurdaspur, in COCP No.1128 of 2021.

It is obviously to be noticed by this Court that in the said line written in the speaking order, it has not been specifically stated by the SSP that the civil suit was filed 'against the petitioner'.

Be that as it may, learned counsel for the petitioner would place on record a fully legible copy of the affidavit, in vernacular, as has been annexed as Annexure P-7 with the petition.

Adjourned to 02.12.2021.

Thereafter, for three dates in succession, learned counsel for the petitioner had either sought an adjournment or had not appeared at all in the matter, with it therefore directed on 19.01.2022 that the matter be taken up as the first case after lunch today, i.e.03.02.2022, and that no request for an adjournment would be entertained.

Pursuant to that order passed, finally learned counsel for the petitioner is present and submits that in terms of the directions given by this court in the order dated 17.11.2021, CRM No.42187-2021 has been filed, seeking to place on record the affidavit of the village sarpanch, in vernacular, as has been annexed as Annexure P-7 with the application.

No notice having been issued in the accompanying petition, none is required to be issued in this application, which is consequently allowed, subject to all just exceptions, and the said affidavit of the Sarpanch, notarized on 30.06.2021, is ordered to be taken on record.

A perusal of the case file shows that a legible typed copy of an affidavit (in vernacular) shown to be notarized on June 30, 2021, had been annexed thereto, the translation of which is already on record as Annexure P-7, and with the

affidavit seen to be stating (in its original vernacular version), that the executant thereof is the Sarpanch of village Jiwanwal, Tehsil and District Gurdaspur; and that on 05.01.2021, one Ashwani Kumar along with some un-identified persons, had attacked Randhir Singh (the present petitioner) and further, that ASI Gurdev Singh of Police Station Sadar, District Gurdaspur, had come to “our house” and in front of her (the Sarpanch) and her son, had obtained the signatures of the petitioner herein on blank papers without recording any statement of the petitioner, with the said ASI alleged to have also stated that his statement would be recorded in the police station.

It has next been stated in the affidavit that even the statement of the “opposite party”, Ashwani Kumar, had also not been recorded, with no proceedings actually conducted (by the ASI).

Learned counsel for the petitioner reiterates that respondent no.2, i.e. the Senior Superintendent of Police, Gurdaspur, having filed an affidavit before this court in COCP No.1128-2021, to the effect that as per the inquiry conducted by the Deputy Superintendent of Police (City), it had been revealed that respondent no.4 therein (i.e. Ashwani Kumar) had filed a civil case regarding illegal encroachment, and further, that during the inquiry it was found that the allegations made by the petitioner against “the private respondents” pertaining to threats/harassment, were found to be false, it is a wholly false affidavit, inasmuch as no proceedings were conducted to determine as to whether the petitioner was actually being harassed at the hands of Ashwani Kumar and the other respondent in the writ petition, i.e. his wife Manjit; and also, with the petitioner not being a party to the civil suit, the order passed by the Senior Superintendent of Police, Gurdaspur is also patently false in that regard.

Having considered the matter, though on a perusal of the affidavit shown to be executed by the Sarpanch of village Jiwanwal, District Gurdaspur (Annexure P-7), it would prima facie seem that in fact no proper inquiry was conducted, yet, to hold on that basis that the SSP actually perjured before this court vide his affidavit dated 17.05.2021, filed in COCP No.1128 of 2021, would be stretching the matter too far in my opinion.

Obviously, the SSP filed the affidavit on the basis of an inquiry put up to him and if the inquiry was not held properly, as is the allegation, the petitioner has his remedy available to him to challenge the said order, which is also what was observed by this court while disposing of COCP No.1128 of 2021 on 29.06.2021 (copy Annexure P-4), with a coordinate Bench having recorded therein that counsel appearing for the petitioner had not pressed that petition, with liberty to challenge the aforesaid order passed by the SSP by way of appropriate proceedings.

Though learned counsel for the petitioner would contend that these are the appropriate proceedings, in my opinion, for the reasons already recorded hereinabove, the SSP cannot be held to have perjured as regards the affidavit dated 17.05.2021 filed in COCP-1128 of 2021.

Consequently, this petition is dismissed, with liberty always available to the petitioner to challenge the said order by way of any other appropriate proceedings, not under the provisions of Section 340 of the Cr.P.C.

(AMOL RATTAN SINGH)
JUDGE

03.02.2022

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No

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I attest to the accuracy and
integrity of this document