

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

119

CRWP-7562-2021 (O&M)
Date of Decision: 26.04.2022

GAGAN PURI AND ANOTHER

... Petitioners

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vaibhav Sehgal, Advocate, for the petitioners.

Mr. Ajay Pal Singh Gill, DAG Punjab.

Mr. Hitesh Pandit, Advocate, for respondents No.6 and 7.

HARNARESH SINGH GILL, J.

Prayer in this petition is for issuance of a writ in the nature of mandamus directing respondent No.2 to protect the life and personal liberty of the petitioners, statedly being harassed by respondents No.3 to 5, at the instance of respondents No.6 and 7 and to take appropriate action on the representation dated 07.06.2021 (Annexure P-5) moved by the petitioners.

Learned counsel for the petitioners submits that FIR No.90 dated 27.03.2021 under Sections 408 and 120-B IPC, at Police Station Salem Tabri, District Ludhiana, was got registered by petitioner No.1 against respondents No.6 and 7, but the said respondents being influential persons, while hiding themselves at Patiala, were threatening the petitioners to withdraw the aforesaid FIR. He further submits that the anticipatory bail petition preferred by respondent No.6 was dismissed by this Court on 28.04.2021 and that

the investigating agency tried to arrest respondents No.6 and 7, but they evaded their arrest and fled away on their motorcycle.

Learned counsel for the petitioners further submits that in connection with the aforesaid FIR and to search for respondents No.6 and 7, the Police party departed from Ludhiana to Patiala, as indicated in General Diary No.24 dated 21.05.2021 (19:45 hours); that on reaching Police Station Kotwali, Patiala, General Diary No.73 dated 21.05.2021 (22:56 hours) was recorded and that respondents No.6 & 7, namely, Amit Kumar @ Kaka and Suraj Kumar, both sons of Ram Shankar, were arrested on 22.05.2021 and accordingly, DDR No.2 dated 22.05.2021 (00:30 hours) was recorded at Police Station Salem Tabri, Ludhiana. He further submits that, after the arrest of respondents No.6 and 7, wife of respondent No.6, namely, Babita, and sister of respondents No.6 and 7, namely, Neha, moved two complaints to the concerned police (one at Patiala and one at Ludhiana), alleging therein that respondents No.6 and 7, were kidnapped by the petitioners. Still further, it is submitted that the factum of the police party reaching Patiala to arrest the accused, was noticed in the General Diary, but there was nothing recorded therein that any act of omission or commission was done by the petitioners, at the time when respondents No.6 and 7 were arrested by the Police and that the application/complaint moved by the sister of respondents No.6 and 7, was considered by the competent authority and the same was filed/consigned.

Learned counsel for the petitioners further submits that whereas the application filed by the sister of respondent Nos. 6 and 7 was consigned by the Police at Ludhiana, the Patiala Police proceeded to entertain the application filed by Babita, wife of respondent No.6,

wherein she had alleged that there was no police personnel at the time of arrest of respondent Nos. 6 and 7 by the Ludhiana Police and that the petitioners had hit their car on backside of the motorcycle of respondent Nos. 6 and 7, as a result of which they had suffered injuries. It is yet further submitted that the Patiala Police has got conducted an inquiry in the application moved by Babita, without any basis and without even taking into confidence the Ludhiana Police, which had in fact effected the arrest of respondent Nos. 6 and 7 from Patiala. Thus, the action of Patiala police is an attempt to help out respondents No. 6 and 7.

On the other hand, while opposing the prayer made in this petition, learned State counsel assisted by learned counsel for respondents No.6 and 7, submits that the petitioners have taken law in their own hands and that the timings of the raiding party do not match. He further submits that the report submitted by the Deputy Superintendent of Police, Patiala to the Senior Superintendent of Police, Patiala, speaks volumes that it was the petitioners, who had inflicted injuries upon respondents No.6-Ajay Kumar.

It is further submitted that if the timings of the occurrence and the departure of the Police Party from Ludhiana is taken into consideration, then it indicates that Police Party started from Ludhiana after the occurrence.

In support of his contentions, learned counsel for respondents No.6 and 7 relies upon the judgment passed by Hon'ble Supreme Court in M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and others, 2021 AIR (Supreme Court) 1918. He lays emphasis on para 23 of the said judgment.

I have heard the learned counsel for the parties at length.

The arrest of accused from Patiala stands duly established on the basis of the General Diaries recorded at Patiala as also at Ludhiana. The stand of the petitioners that they had accompanied the Ludhiana Police to effect the arrest of respondent Nos. 6 and 7 also stands established on record. Once, the Ludhiana Police had recorded a General Diary at Patiala, regarding the arrest of respondent Nos. 6 and 7, if really the petitioners had given any kind of injuries to respondent No.6, the same ought to have been reflected either in the General Diary recorded at Patiala or there must have been some action initiated by the Patiala Police, there or then or immediately thereafter on their own. However, acting on the application of the wife of respondent No. 6 and recording a finding that respondent No. 6 had been inflicted injuries by the petitioners, seems to be an afterthought and does not inspire any confidence.

Even otherwise, there is nothing on record to indicate that the Patiala Police was averse to the action of the Ludhiana Police in effecting the arrest of respondent Nos. 6 and 7 from Patiala. The inquiry conducted by the Patiala Police upon the application filed by Babita, wife of respondent No.6, does also not indicate anything in this regard. Hence, the action initiated by the Patiala police is not only unilateral but an attempt to come to the aid of respondent Nos. 6 and 7, who are accused in a criminal case registered at Ludhiana.

In view of the above, this Court is of the considered opinion that the inquiry conducted by the Deputy Superintendent of Police, Patiala, in the application filed by Babita, is an abuse of process of law and hence, while exercising the inherent jurisdiction of

this Court under Section 482 Cr.P.C., the said proceedings are hereby quashed.

With the above observations, the present petition is disposed of.

26.04.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No