

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

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**CWP-17294-2019 (O&M).
Date of Decision: September 02, 2022.**

Ramveer Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Manoj Kumar Pundir, Advocate, for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ of mandamus directing respondent Nos.2 and 3 to protect the life and liberty of the petitioners which is alleged to be in danger at the hands of private respondent Nos.4 to 9, with a further prayer for seeking issuance of directions to the official respondents to ensure that the petitioner is not implicated in any false case. It is also prayed that respondent No.2 be

directed to get the vehicle of the petitioner recovered which is allegedly in the illegal custody of the private respondents.

2. Learned counsel appearing on behalf of the petitioner has argued that the petitioner is the owner of vehicle bearing registration No.PB-65-X/4773, which was purchased by him in the year 2014 after getting the same financed from Cholamandalam Investment Finance Company Limited. He submits that there was no encumbrance of any sort upon the said vehicle which was being used by him for earning his livelihood, yet, private respondent No.4 who is owner of a brick kiln i.e. M/s Aggarwal B.K.O. at Village Aagapur, Police Station Lalru, District S.A.S. Nagar, in connivance with the other private respondents had forcibly retained the aforesaid truck/vehicle of the petitioner. It is contended by the counsel for the petitioner that the petitioner used to supply labour to the brick kiln and also used to work as a contractor to supply labourers to the private respondents. It is alleged that the private respondents nursed a grudge on account of the petitioner supporting the cause of the labourers in filing complaints against the act and conduct of the brick kiln owner. It is alleged that on account of the aforesaid grudge the petitioner was given slaps and abuses by respondent No.9 Kuldeep Singh, Constable, and the petitioner was taken to the police post and maltreated. He contends that the vehicle in question is being used by the private respondents even though they have no right to retain the same and that the representations submitted by the petitioner are not being looked into by the police authorities.

3. Pursuant to the notice issued to the respondents, response by way of affidavit of Mr. Gurbakshish Singh, PPS, the Deputy Superintendent of Police, Sub Division Derabassi, District S.A.S. Nagar, has been filed on

behalf of respondent Nos.1 to 3. The relevant extract of the same reads thus:-

“2. That with regard to the subject matter of the present petition, it is respectfully submitted that one representation dated 15.05.2019 (P-4) was received in the office of the SSP, District SAS Nagar from the petitioner for taking action against Kamaljit Goyal, Lucky, Vijay and Balwinder Singh alleging that the said persons had illegally taken the tipper of the petitioner with the help of police officials of Police Post Nahar Lehli and were demanding Rs.4.50 lacs for released/release of the said tipper besides alleging the use of caste based words against the petitioner by the respondent No.9.

3. That it is respectfully submitted that in pursuance thereof, the SSP, District SAS Nagar, had directed the SHO, Police Station Lalru to conduct a thorough probe into the allegations leveled by the petitioner in the said representation and to submit the report. Accordingly, the SHO, Police Station Lalru commenced with the inquiry by summoning both the parties by way of summons, however, the petitioner had refused to note the summons and denied to join the inquiry. It is submitted that the opposite party came present and got associated in the inquiry and accordingly their respective statements were recorded. During the course of inquiry, the opposite party informed that the petitioner owed a sum of Rs. 5,14,700/- towards Kamaljit Goyal as he had obtained the said money from Kamaljit Goyal on the pretext of supplying the labour on the brick kiln of Kamaljit Goyal, however, he could not provide the provide the said labour. Since the petitioner and the opposite party were having work relationship for a long time, therefore, both the parties with the intervention of the respectable persons from both the sides entered into a compromise that the petitioner would pay a sum of Rs. 4.50

lacs to Kamaljit Goyal till 15.06.2019 and till that time the tipper of the petitioner bearing No. PB065-X-4773 would be lying as security with Kamaljit Goyal, however, in case the petitioner fails to make the payment of Rs. 4.50 lacs to Kamaljit Goyal till 15.06.2019, he would transfer the ownership of the said tipper in favour of Kamaljit Goyal. In this regard, the petitioner gave one sworn affidavit to the opposite party besides entering into a Panchayati compromise dated 30.04.2019 as well as an agreement dated 30.04.2019 duly signed by him. True translated copy of the sworn affidavit, the Panchayati agreement and the agreement are being annexed herewith as Annexure R-1/T, R-2/T and R-3/T respectively for the kind consideration of this Hon'ble Court.

4. That it is respectfully submitted that from the inquiry conducted, it transpired that the petitioner owed a sum of Rs. 4.50 lacs to the respondent no. 4 as per the Panchayati compromise dated 30.04.2019, agreement dated 30.04.2019 as well as the affidavit given by the petitioner and the said amount was to be paid to the respondent no. 4 till 15.06.2019, however, the petitioner did not make the said payment to respondent no. 4 and therefore, in order to wriggle out of his liability, the petitioner made false complaint by leveling false and frivolous allegations against the officials of Police Post Nahar Lehli as well as the private respondents. It is pertinent to mention here that that petitioner had submitted the original documents of the tipper in question to respondent No. 2 at the time of the alleged compromise, however, the same were taken back by the petitioner from respondent no. 4 on the pretext that the said documents were required for transfer of tipper in the name of respondent no. 4. The allegations leveled against the respondent nos. 8 & 9 of harassing the petitioner, beating were him and using caste based words against him were found to be false and leveled with the intent to pressurize them to take action against the private respondents.

5. *That it is respectfully submitted that since from the inquiry conducted by the SHO, Police Station Lalru, the allegations averments made by the petitioner in the complaint were found to be false, frivolous with the intention to not to pay the sum of Rs. 4.50 lacs to respondent no. 4 and to avoid the transfer of tipper in question in favour of respondent no. 4, the SHO, Police Station Lalru had recommended for filing the said complaint in the office. The report of the SHO, Police Station Lalru was perused and considered by the answering respondent and while agreeing with the same, forwarded to the SSP, District SAS Nagar with the recommendation to file the complaint in the office. The SSP, District SAS Nagar thoroughly perused and considered the report and while agreeing with the same, filed the said complaint in the office. True translated copy of the inquiry report is being annexed herewith as Annexure R-4/T for the kind consideration of this Hon'ble Court."*

4. Even though aforesaid response was filed on 12.12.2019, no counter to the aforesaid reply disputing the factual position as set out therein has been filed by the petitioner. Thus, there is no reason to disbelieve that version given by respondent Nos.1 to 3 in the aforesaid reply by way of affidavit is correct and uncontroverted. The dispute thus pertains to the possession and ownership of the vehicle between the petitioner and the private respondents. The factum, as to whether the compromise/Panchayati settlement was voluntary or not, cannot be decided in the exercise of writ jurisdiction. The same is a dispute between petitioner and the private respondents, which does not fall under the definition of Agency and Instrumentality of the State. The writ jurisdiction is not a panacea for adjudication of civil rights and the remedy, if any, available to

the petitioner is for seeking enforcement of his rights, is by means of filing an appropriate petition before the Civil Court. The present petition is accordingly dismissed as not pressed, at this stage.

5. Liberty, however, is granted to the petitioner to take recourse to the remedies available to the petitioner in accordance with law to seek enforcement of his rights.

6. Pending misc. applications, if any, shall also stand disposed of accordingly.

September 02, 2022
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No