

201.

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

CWP-19277-2019

Date of Decision: 11.03.2022

(Heard through VC)

BHAGRI RATH

.... Petitioner

Versus

STATE OF HARYANA AND ORS.

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sunil Polist, Advocate,
for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

JAISHREE THAKUR.J

1. The challenge in this writ petition is to the suspension order dated 12.07.2019 (Annexure P-3) passed by Superintendent of Police, Kaithal, respondent No.3 herein, being illegal, void, arbitrary and against the rules and principles of natural justice.

2. In brief, the facts are that the petitioner was selected as Constable and on account of his good service, got promoted to the post of ASI. The petitioner was transferred to the Police Post Kithana as Incharge and joined on the said post on 26.08.2018. On 02.11.2018, information was received about the gunshot injury on one Dalbir Singh and the matter was investigated. During investigation, the matter was discussed with the petitioner's higher officers and an FIR No.202 came to be registered on 26.11.2018, under Sections 307/452/506/34 IPC and Section 25 of the Arms Act, 1959 at Police Station

Rajound. Dissatisfied with the investigation, the injured Dalbir Singh filed CRM-M-56040-2018 in this Court and prayed for swift action and investigation in FIR No.202. An application was moved by the son of the injured to the Chairman, District Grievances Committee, Kaithal for proper investigation and to conduct a departmental enquiry against the present petitioner with the allegation that despite FIR under Section 307 IPC having been registered, no arrest had been made so far. The matter was looked into by the Superintendent of Police, Kaithal who opined vide his report dated 10.07.2019 that all allegations made in the complaint were baseless, and that the enquiry conducted by the petitioner herein is as per rule and procedure established. However, within a period of two days, the Superintendent of Police, Kaithal, on instructions received from the proceedings of the District Grievances Committee held on 12.07.2019 placed the petitioner under suspension with immediate effect, for delay in registration of the FIR.

3. Learned counsel appearing on behalf of the petitioner herein would contend that the suspension order dated 12.07.2019 is wholly arbitrary, unconstitutional and deserves to be set aside. It is argued that the investigation done under the said FIR was as per procedure, which would be evident from the report submitted by the S.P. Kaithal. It is submitted that the Grievances Committee in its proceedings held on 12.07.2019 was not made aware of the true facts, and without an opportunity of hearing, he was suspended.

4. Mr. Tapan Kumar Yadav, DAG, Haryana submits that a complaint had been received regarding the inordinate delay of registering the FIR and that on the basis of complaint, the Hon'ble Chairman Shri Anil Vij recommended the suspension of the petitioner in the monthly meeting of the District Grievances

Redressal Committee held on 12.07.2019, consequent to which, suspension order was passed. It is argued that a regular departmental enquiry was also ordered against him and the same was entrusted to the Deputy Superintendent of Police (Headquarters), Kaithal.

5. I have heard learned counsel for the parties and have perused the impugned order dated 12.07.2019. The facts are not in dispute. An FIR No.202 came to be registered on 26.11.2018 under Sections 307/452/506/34 IPC and under Section 25 of the Arms Act, 1959 at Police Station Rajound on a complaint dated 02.11.2018. However, on a complaint filed before the District Grievances Redressal Committee by the complainant, the petitioner was placed under suspension on 12.07.2019 for causing delay of 24 days in registration of the FIR. In fact on the basis of an earlier complaint moved, an enquiry was conducted by the Deputy Superintendent of Police, Kaithal and on the basis of said enquiry done, the Superintendent of Police, Kaithal, by an order dated 10.07.2019 sent detailed a report to the office of the Deputy Commissioner, Kaithal, vide memo No.2989-PC, dated 10.07.2019 detailing the dates as to how the investigation had been done in the matter. A reading of the said report would show that a request had been made by the petitioner requesting for an advice about the injuries suffered. An application was given for taking the case summary and x-ray report of the injured who was then transferred by the Government Hospital Kaithal to Rohtak, information was sought about the location of the accused, testimony of the villagers were taken who declined the allegations of the First Information Report. One of the person nominated as an accused was not present on the spot and on receipt of FSL, the FIR was registered. The Superintendent of Police further came to the conclusion that the

investigation had been done in accordance with law and procedure and that is why there was a delay in registration of the FIR.

6. As per Rule 16.17 of the Punjab Police Rules, a person may be suspended pending a departmental inquiry so as to ensure that he is not in a position to hamper the investigation. However, from the reply filed it is not clear as to whether chargesheet has been served upon the petitioner which would warrant the continuance of the suspension order. A suspension order cannot be allowed to stand without any chargesheet having been issued. The matter had been investigated by the DSP, Kaithal and the report of the SP, Kaithal have come to the conclusion that no fault can be attributed to the investigation done by the petitioner.

7. Therefore, in the facts and circumstances of the present case the impugned order is set aside and the writ petition stands allowed.

(JAISHREE THAKUR)
JUDGE

11.03.2022

sanjeev

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No