

**(211) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRWP-8786-2020
Date of Decision:08.02.2022
(Through Video Conferencing)**

Sandeep Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present : Mr. Mohit Sharma, Advocate for
Mr. Lupil Gupta, Advocate
for the petitioner.

Mr. K.S. Sidhu, D.A.G. Punjab.

Mr. H.S. Dhindsa, Advocate
for respondents No.5 and 6.

JASJIT SINGH BEDI, J. (Oral)

At the very outset, Mr. Mohit Sharma, Advocate, proxy counsel for Mr. Lupil Gupta, Advocate submitted that Mr. Lupil Gupta was to appear in the matter and sought an adjournment. However, on being confronted with the earlier orders dated 18.01.2021, 27.04.2021, 14.07.2021 and 28.09.2021, the proxy counsel sought a pass-over. On the matter being taken up once again, he made a statement that Mr. Lupil Gupta, counsel for the petitioner has been quarantined. It appears that learned counsel for the petitioner does not want to argue the matter as even being in quarantine would not be an impediment to hearing as matter are being heard through video conferencing. Be that as it may, I proceed to decide the same on the basis of the pleadings made by the respective parties.

The prayer in this petition is for issuance of directions to the respondents No.2 to 4 to protect the life and liberty of the petitioners and his family members at the hands of respondent No.5 who is stated to have attacked the petitioner on 12.10.2020 causing injuries to him as per the

MLR (Annexure P-10).

There is a further prayer that a criminal case be registered against respondent No.5 under the appropriate Sections of IPC for the injuries caused to the petitioner.

As per the pleadings, the dispute between the petitioner and respondents No.5 and 6 pertains to the election of the Mallan Multipurpose Cooperative Agricultural Services Society Limited Village Mallan, Tehsil Jagraon, District Ludhiana.

Learned counsel for the petitioner had stated/pleaded that there was a dispute regarding the elections of the Society and pursuant thereto, writ petition i.e. CWP-16883-2020 also came to be filed with respect to the said election dispute. He had further submitted that he had been attacked on 12.10.2020 which led to injuries being caused to him.

Based on the aforementioned pleadings and arguments, this Court on 23.10.2020, issue notice of motion and passed the following order:

“Case has been heard through video conferencing on account of COVID-19 Pandemic.

This petition has been filed by the petitioner seeking direction to respondents No.2 to 4 to protect his and his family member's life and liberty from the hands of respondent No.5, who had attacked him on 12.10.2020, but the police failed to take any action against the said respondent.

Counsel for the petitioner has relied upon MLR (Annexure P-10) and statement of the petitioner (Annexure P-11) in support of his case.

Notice of motion.

At this stage, Mr. Pawan Sharda, Sr. D.A.G, Punjab accepts notice on behalf of respondents No.1 to 4 and requests for adjournment to file reply.

In the meantime, respondent No.3 is directed to look into the

matter and to provide protection to the life and liberty of the petitioner and his family members, if any threat perception is found.

Adjourned to 4.12.2020.”

A reply by way of affidavit of Sukhnaaz Singh, PPS, DSP, Raikot, District Ludhiana (Rural) on behalf of respondents No.1 to 4 was filed on 1.12.2020. A perusal of that reply would show that injury received by the petitioner on 12.10.2020 as set out in the petition was a blunt weapon injury and simple in nature. The offence being non cognizable, no FIR was registered. However, DDR No.31 dated 14.10.2020 was recorded in the Roznamcha of P.S. Hathoor. Thus, it is contended by the learned State counsel that the petitioner could approach the competent court for taking action against the assailants as per law.

Regarding the threat perception, it was stated that proceedings under Sections 107/150/151 IPC had been initiated against respondent No.5-Harinderdeep Singh son of Satnam Singh, Gurpreet Singh son of Mishra Singh and Jassa Singh son of Nirmal Singh resident of village Mallah, P.S. Hathoor vide DDR No.19 dated 2.11.2020 to maintain law, order and peace. It has been further submitted in the reply that the petitioner was given protection on 5.11.2020 at the time of Election of Cooperative Society, Mallah and on another occasion at the time when the petitioner was harvesting his paddy crop. Thus, the State contended that nothing survived in the present petition.

A reply by way of affidavit of Gurmail Singh Dhaliwal, resident of Village Mallah, Tehsil Jagraon, District Ludhiana, was submitted on behalf of respondents No.5 and 6. The respondents also referred to CWP-16883-2020 to contend that there was a dispute between

the parties regarding the Cooperative Society and its election. It is also submitted that FIR No.0089 dated 8.11.2020 under Sections 324, 323, 506, 34 of IPC had been registered at the instance of respondent No.5 against the petitioner and his family members in which challan has been filed on 12.5.2021. Thus, it was contended that prayer in the petition was misconceived.

As has already been submitted here-in-above, the petitioner sought time on 18.1.2021 to file rejoinders to the written statement of the respondents. The same has not been filed till date. The matter was thereafter listed on 27.4.2021 on which date time was sought by the petitioner. Once again on 14.07.2021, time was sought by the petitioner and it was made clear in the order that if the matter was not argued, the interim order dated 23.10.2020 would stand vacated. A similar prayer for adjournment was made on 28.9.2021.

I have gone through the pleadings of both the parties and have heard learned counsel for the State as also counsel for respondents No.5 and 6.

A perusal of the petition reveals that there were primarily two prayers of the petitioner. First regarding protection and the second regarding the registration of an FIR.

With respect to the first prayer, it is apparent that the petitioner has received adequate security from time to time as per his requirement when he sought the same.

Insofar as registration of an FIR is concerned, it is clear that the injuries received by the petitioner would attract an offence under Section 323 IPC at best and remedy available to the petitioner is by way of filing a

criminal complaint, the offence under Section 323 IPC being non cognizable. On the other hand, it appears that the petitioner himself is accused in an FIR in which respondent No.5 is the complainant.

In view of the aforementioned facts and circumstances, no further orders are required to be passed in the present case. However, if the petitioner feels that there is a recurring threat to him in future, he is free to approach the authorities concerned who shall after assessing the threat perception, if any, proceed in accordance with law.

Disposed of.

08.02.2022
rajeev

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No