

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

104+201

**CM-8052-CWP-2021 IN/AND
CWP-18502-2020 (O&M)
Date of Decision: 30.11.2022**

RASHMIKANT B. GABHAWALA

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Ravi Gakhar, Advocate and
Mr. Vishal Sauda, Advocate for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

CM-8052-CWP-2021

This is an application for placing on record the reply on behalf of respondents No.1 to 4.

For the reasons mentioned in the application, the same is allowed subject to all just exceptions.

The reply is ordered to be taken on record. Registry is directed to tag the same at appropriate place of the paper book and page mark the same.

MAIN CASE

The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of Certiorari for quashing of the alleged warrant of arrest (Annexure P-15) dated 23.06.2020 communicated to the petitioner on 28.09.2020.

Learned counsel for the petitioner contends that the son of the petitioner had filed a complaint against the private respondents on 11.01.2018

giving the specific details with regard to the dispute between the petitioner and the private respondents and the threats being extended by them. However, ignoring the representation/complaint filed by the petitioner's son, an FIR was registered by respondent No.4 against the petitioner and his family members bearing No.150 dated 03.07.2018 under Sections 420, 406 and 120-B of the Indian Penal Code, 1860 at Police Station City Kharar, District SAS Nagar Mohali. The petitioner thereafter submitted a representation to the Addl. Director General of Police, Punjab regarding the registration of false FIR against him and the same being abuse and misuse of process of law. The said representation was forwarded by the competent authority and eventually, a cancellation report was submitted by the respondent-Authorities on 18.02.2020. He contends that despite cancellation report having been submitted by the police, a warrant of arrest dated 23.06.2020 was sent to the petitioner, which was received by him on 28.09.2020 i.e. after nearly four months of the issuance of the same.

Pursuant to the notice issued by this Court, a short reply by way of affidavit of Bikramjit Singh Brar, PPS, Deputy Superintendent of Police, Sub-Division Kharar-I, District SAS Nagar has been filed on behalf of the respondents No.1 to 4. The relevant extract of the same is reproduced hereinafter below:

“4. That it is respectfully submitted that vide the present petition, the petitioner has prayed for issuance of writ in the nature of certiorari for quashing the arrest warrant dated 23.06.2020 (Annexure P-15). In response to the same, it is submitted that Annexure P-15 is not the arrest warrant as alleged before this Hon'ble court rather the same is merely an information slip/intimation sheet prepared in accordance with clause 23.17 of Punjab Police Rules, 1934, which contains the information relating to the present FIR. The relevant extract of Rule 23.17 of

Punjab Police Rules, 1934 is being reproduced herein below for the ready reference of this Hon'ble Court:

".... 23.17 Information sheets. (1) Information sheets in Form 23.17

(1) xxxxxxxxxxxx

(2) Information sheets shall be issued by an officer in charge of a police station as means of ascertaining the antecedents of persons:

(a) who are genuinely believed to have committed an offence whether or not they have been or are to be arrested

(b) who have been arrested under section 55, Criminal Procedure Code

(c) xxxxxx

The officer in charge of police station shall send an information sheet in Form 23.17 (1) as soon as possible to the officer in charge of the police station of which such person claims to be a resident, giving-

(i) an account of the circumstances in which such person came to notice

(ii) an account of the offence if any with which such person is believed to be connected.

(iii) the names and a statement of the characters of the persons with whom such person has been associating, and

(iv) xxxxxxxxxxxxxx

and enter its despatch in Police Station Register No.XII, Form 23.17

(2).

(3) xxxxxxxx

(4) xxxxxxxx

(5) xxxxxxxx

(6) xxxxxxxx

(7) (a) xxxxxxxx

(b) xxxxxxxx

(c) xxxxxxxx

5. *That it is respectfully submitted that the petitioner has wrongly referred to Annexure P-15 of the paper-book as his arrest warrant whereas the same is merely an information slip/intimation strip, the contents of which merely state that the same is an intimation relating to the above mentioned FIR registered against him and that same had been sent as per procedure in practice under law. Thus, the present petition filed by the petitioner deserves to be dismissed as the same is misconceived and based on conjectures and surmises.”*

While making reference to the aforesaid averments contained in the short reply by way of affidavit of the DSP, Sub Division Kharar-I, learned State counsel contends that the Annexure P-15 is not a arrest warrant as alleged by the petitioner, rather the same is merely an information slip/intimation sheet prepared in accordance with Clause 23.17 of the Punjab Police Rules, 1934, which contained the information relating to the present FIR. It is further submitted that there was no warrant of arrest that was issued to secure the arrest and/or production of the petitioner. It was merely an information sheet sent to the petitioner.

In view of the above, the present petition has been rendered infructuous since the respondent-Authorities have themselves submitted that the impugned document i.e. Annexure P-15 was not a warrant of arrest but merely an information/intimation with regard to the submission of cancellation report as is mandated in Public Police Rules, 1934. Thus, no further directions are required to be issue in the present case.

Disposed of accordingly.

The petitioner would, however be at liberty to take recourse to the alternative efficacious remedy(ies) qua his other subsisting or surviving

grievance(s), if any, relating to inaction on the part of the respondent-Authorities.

30.11.2022
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No