

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

247

**CRWP-10465-2021(O&M)
Date of decision: 04.05.2022**

ALAM DIN

....Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS

...Respondent(s)

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

Present : Mr. Prince Sarangal, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition has been filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure with a prayer with a prayer for issuance of writ in the nature of *mandamus* directing respondent Nos.2 to 4 to protect the life and liberty of Asik Ali (brother of the petitioner) from the hands of respondent Nos.5 and 6 and to restrain them from harassing the brother of the petitioner.

Learned counsel for the petitioner has vehemently argued that the brother of the petitioner was illegally taken by the Jalandhar (Rural) Police and Hoshiarpur Police and is being harassed and tortured by the Police on one pretext or the other. It is also submitted that two FIRs have been falsely registered against his brother; one by Jalandhar Rural and second by Hoshiarpur Police. It is submitted that the official respondents Nos.5 and 6 are implicating the brother of the petitioner in frivolous cases for malicious reasons.

Status report by way of short affidavit of Ajay Gandhi, IPS, Assistant Superintendent of Police, Sub-Division, Adampur, District Jalandhar (Rural) has been filed today in the Court along with a copy to the counsel for the petitioner.

The relevant extract of the said status report is reproduced hereinbelow:-

2. That as per record three FIR's i.e. FIR no: 07 dated 06-01-2021 under section 380 IPC and later added section 201 IPC, FIR no: 102 dated 26-08-2021 under section 379-B IPC later added 201, 411,120-B IPC both at PS Bhogpur, District Jalandhar as well as another FIR no: 71 dated 30-09-2021 under sections 379-B, 482,457,380 IPC at PS Patara, District Jalandhar are registered against the brother of petitioner namely, Aashiq Ali @ Aku and other co-accused, in which said Aashiq Ali @ Aku was arrested.

3. That in this case FIR 07/2021, the complainant, complained about theft of his buffaloes. As per record of FIR no: 07/2021, an intimation was received to police station Bhogpur that the brother of petitioner namely Aashiq Ali @ Aku, Rinku and co-accused Murad Din have been arrested in FIR no: 71 dated 30-09 -2021 under sections 379-B, 482,457,380 IPC at PS Patara Jalandhar. So, ASI Iqbal Singh along-with SI Ajit Singh CIA staff after collection of necessary documents and vide DDR number 35 dated 03-10-2021 arrayed the brother of the petitioner and Rinku as accused in the said FIR. Murad Din was not arrested in this case. The brother of the petitioner and co-accused Rinku are now on bail in this case.

4. That similarly in FIR number 102/2021 PS Bhogpur, District Jalandhar, complainant got recorded that two persons have snatched the vehicle and mobile of the complainant. The mobile of the complainant got traced with the assistance of technical cyber cell. The snatched mobile of the complainant was found working in the hands of one Shafi Mohammad, who was arrested. Shafi Mohammad made a disclosure statement that he has purchased the mobile from Shammu Din for Rs. 500 /-only. Accordingly, Shamu Din arrayed as accused in the case. The brother of the accused Aasiq Ali @ Aku was arrested on the confession of the Shafi Mohammad. In this case FIR no 102/2021, the brother of the petitioner also got recorded his

disclosure statement. Because the mobile phone of the complainant was disappeared by accused, so section 201 IPC was added in the case. Similarly, the vehicle of the complainant was got recovered at the instance of Aashiq Ali, which was later recovered from the house of Rinku. So, section 411 IPC was added in this FIR.

5. That in FIR no: 71 dated 30-09-2021, the brother of petitioner was produced before the court of Illaqa Magistrate, Jalandhar by police officials of PS Patara on 3-10-2021. He got recorded his confession that he along-with his conspirators has stolen the buffalo's. So, Aashiq Ali was arrested on 03-10-2021 in both FIR's i.e. FIR no: 07 dated 06-01-2021 and FIR no.102/2021. Aashiq Ali and other arrested accused are now on bail in the above registered cases. The challan had been submitted in the concerned Courts and the trial of both FIR 07/2021 and 102/2021 is pending for 31-05-2022 for evidence. The challan of the FIR no: 71/2021 was submitted on 25-10-2021 and this trial is pending for prosecution evidence.

7. That no representations dated 26-11-2021 yet has been received to police station. But the petitioner is trying to get a favourable order from this Hon'ble Court under the guise of present petition. The brother of petitioner is a criminal and it is the duty of the public officers to maintain law and order in the society. The officials of the answering respondent have no personal grudge against the brother of the petitioner.

The aforesaid factual aspect has not been disputed by the counsel for the petitioner and no valid explanation has been tendered as to why any malicious involvement of the petitioner would be undertaken by the official respondents and as to what is the reason for motive for the officials respondents to implicate the brother of the petitioner.

Apparently, the apprehension expressed by the prosecution seems to a probable and plausible explanation and that the present petition is an attempt to

cast pressure on the investigating agency by leveling frivolous allegations upon the investigating agency. Filing of such frivolous, motivated and mischievous petitions needs to be deprecated.

The present petition is accordingly dismissed with costs of Rs.5,000/- to be deposited by the petitioner with the District Legal Services Authority, Amritsar.

(VINOD S. BHARDWAJ)
JUDGE

May 04, 2022

S.Sharma(syr)

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