

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

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**CWP-26602-2022 (O&M).
Date of Decision: 21.11.2022.**

Ravinder Singh alias Shoki

...Petitioner

Versus

The State of Punjab and others

...Respondents

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

Present: Ms. Sarika Gupta, Advocate for the petitioner.

Mr. Saurav Verma, Addl. A.G. Punjab.

VINOD S. BHARDWAJ. J (ORAL)

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 mandamus directing respondent State of Punjab to take legal and departmental action against respondents No.7 to 11 in terms of Investigation Report (Annexure P-4) submitted by the Special Investigation Team (hereinafter referred to as 'SIT') comprising of three senior IPS officers pursuant to the directions given by this Court vide order dated 23.09.2013 (Annexure P-3) passed in CRM-M-15299 of 2013.

Learned counsel appearing on behalf of the petitioner contends that the petitioner was forcibly taken away from his office on 12.04.2013 at about 6:00 P.M. by Inspector Sulakhan Singh – respondent No.7 and was thereafter falsely implicated in FIR No.43 dated 12.04.2013, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred as ‘NDPS Act, 1985’) registered at Police Station, City Hoshiarpur. He contends that there was no recovery effected from the petitioner at the spot and the raiding party themselves was carrying a polythene containing intoxicant powder weighing 525 grams of heroin which was eventually allegedly to have been recovered from the petitioner. It is averred that there is a CCTV camera installed inside and outside the shop of the petitioner and the entire incident was duly captured in the said CCTV camera.

Aggrieved of the false implication, the petitioner had approached this Court by means of filing of CRM-M-15299 of 2013 for seeking issuance of directions to the respondent-State to conduct independent judicial inquiry or to send the investigation of the matter to the CBI since the respondent police officials had not only falsely implicated the petitioner but also embezzled/mis-appropriated an amount of Rs.4 lacs lying in the shop of the petitioner. The aforesaid petition was disposed of vide judgment dated 23.09.2013 wherein this Court directed that the investigation of the case be conducted by a Special Investigation Team to be headed by an officer not below the rank of a Deputy Inspector General of Police or the Senior Superintendent of Police, an IPS officer, not from State of Punjab. The investigation was directed to be

conducted by the SIT under the direct supervision of the Director General of Police (Vigilance), Punjab and the same was to be concluded within a period of 03 months. The proceedings against the petitioner were also ordered to remain stayed till the conclusion of the investigation. It was also observed that further action in the matter would follow on the basis of the report submitted by the SIT.

Pursuant to the aforesaid judgment dated 23.09.2013, the SIT submitted its report on 26.06.2014. Relevant conclusions of the said report read as under:-

“Findings of SIT

- (i) From the examination of the CCTV footage and the statements of the eye witnesses presented by the petitioner, it seems that the petitioner was apprehended by police from the RFC office. He was found entering the RFC office, while talking casually on his phone. He was not accompanied by any person or police official. The body language of the petitioner did not indicate that he was taken into custody by police or he was trying to flee from the spot.*
- (ii) When the petitioner was apprehended by Insp. Sulakhan Singh and H.C Charanjit Singh, there seems to be no bag or anything with him except his mobile.*
- (iii) The version of police seems to be an afterthought to justify the recording in the CCTV footage. The police could not present any eye witnesses to justify their version. Some witnesses were produced by police during the investigation, who were not present when recovery was made by the police. They only stated that the petitioner is a bad character and is into illegal activities. They did not know the petitioner personally.*
- (iv) The recovery of heroin was not made as per the provisions of section 50 of NDPS Act, 1985 regarding the conditions under which search of person shall be conducted. The place of recovery*

shown by the police is at Bahadurpur Gate, Hoshiarpur, which is close to CIA Staff and approximately 1.5 kms. away from SSP, Hoshiarpur office and any GO/DSP could have reached the spot immediately. The recovery of contraband appears to be suspicious considering the above circumstances.

v) Regarding the search of the premises conducted by ASI Narinderpal Singh, H.C Harbans Singh, H.C. Satpal Singh and H.C. Manjit Singh in the presence of Lakhvir Singh S/o Dharam Singh, Rajinder Kumar S/o Barfi Ram, it is obvious from the CCTV footage that it took almost 10 minutes to count the money recovered from the drawer and the almirah lying in the petitioner's shop, and from this fact, it seems that the amount of money recovered from the petitioner's RFC office may be larger than Rs. 58,470. Besides, the recovery memo of the same was not prepared properly. However, petitioner's claim of borrowing Rs. 4.00 lacs from his friend Ashok Jandial could not be established from the CCTV footage. Further, the contents of packet which was kept near the feet of ASI Narinderpal Singh could not be ascertained. No definite finding could be given about the allegations of misappropriation of amount of Rs. Four lacs.”

After filing of the report by the SIT, various discrepancies were noticed in the investigation conducted by the officials including the fact that the petitioner was apprehended from his shop and that at the time when the petitioner was apprehended, he was not carrying any bag or anything with him except his mobile phone. The police also could not produce any eye-witness to justify their version and only stated that the petitioner is of a bad character and is involved in illegal activities. Further, the recovery of the contraband was also not made as per the provisions of Section 50 of the NDPS Act, 1985 and the place of

recovery was shown by the police at Bahadurpur Gate, Hoshiarpur, which was close to the CIA staff and no Gazetted Officer or DSP was called at the spot. As far as, the fact pertaining to notes was noticed no definite finding was returned regarding the misappropriation of the amount of Rs.4 lacs.

In view of the aforesaid findings recorded by the SIT, an application under Section 482 Cr.P.C. was filed by the petitioner in CRM-M-15299 of 2013 for seeking direction to the respondents to take action against the guilty persons in the light of the report. The aforesaid application, however, had been dismissed as withdrawn with liberty to the petitioner to take recourse to the alternative remedies in accordance with law.

In the meanwhile, since the charge-sheet had already been filed by the respondent State, Criminal Revision No.2620 of 2013 was also preferred by the petitioner wherein further proceedings before the trial Court stood stayed. A separate representation was submitted by the petitioner to the Director General of Police, Punjab, pursuant to the order passed in CRM No.41083 of 2017 dated 01.02.2019 and in the aforesaid representation submitted by the petitioner to the Director General of Police, Punjab (Annexure P-9), the petitioner had sought action against the guilty police officials.

Learned counsel for the petitioner contends that her grievance is on account of inaction by the respondent police officials against the private respondents who were inducted by the SIT. She further contends that she would be satisfied, at this juncture, in case the Director General

of Police, Punjab, is directed to look into the grievances espoused by the petitioner and pass a reasoned and speaking order thereupon after affording an opportunity of hearing to the respective parties.

Notice of the present petition is accepted by the learned State counsel

In view of the order which this Court proposes to pass, the necessity of effecting service upon respondents No.7 to 11, is dispensed with, at this stage.

Learned counsel for the State has no objection to the present petition being disposed of by directing the Director General of Police, Punjab, to look into the grievances espoused by the petitioner and pass a reasoned and speaking order thereupon after affording an opportunity of hearing to the respective parties.

Accordingly, with the consent of the parties and without commenting upon the merits of the case, the present petition is disposed of directing respondent No.2 - The Director General of Police, Punjab, to look into the grievances espoused by the petitioner in the representation (Annexure P-9) and to pass a reasoned and speaking order thereupon within a period of 04 months of the receipt of certified copy of this order after affording an opportunity of hearing to the respective parties.

Accordingly, the present petition is disposed of.

November 21, 2022
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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