

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(139)

CRWP-11379-2022

Date of decision:- 05.12.2022

Vivek Sharma

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Gaurav Sharma, Advocate for the petitioners.

...

SUVIR SEHGAL, J. (Oral)

Petitioner has approached this Court under Article 226 of the Constitution of India for issuance of writ in the nature of mandamus for directing the respondents No.1 to 5 to hand over the investigation of FIR No.80 dated 05.10.2021, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860 at Police Station Women-I, Amritsar, District Amritsar, Annexure P-1, to the Crime Branch, Chandigarh. Further prayer has been made that respondents No.1 to 3 may be directed to protect the life and liberty of the petitioner from the hands of respondents No.7 and 8.

Heard counsel for the petitioner.

Concededly, the petitioner is accused in the above said FIR. He has no right to seek a direction either for transfer of investigation nor in the mode or manner of conducting enquiry.

Apex Court in *Romila Thapar v. Union Of India*, (2018) 10

SCC 753 has held as follows:-

"24. Turning to the first point, we are of the considered opinion that the issue is no more *res integra*. In *Narmada Bai v. State of Gujarat* [*Narmada Bai v. State of Gujarat*, (2011) 5 SCC 79 : (2011) 2 SCC (Cri) 526], in para 64, this Court restated that it is trite law that the accused persons do not have a say in the matter of appointment of investigating agency. Further, the accused persons cannot choose as to which investigating agency must investigate the offence committed by them. Para 64 of this decision reads thus : (SCC p. 100)

"64. ... It is trite law that the accused persons do not have a say in the matter of appointment of an investigating agency. The accused persons cannot choose as to which investigating agency must investigate the alleged offence committed by them."

25. Again in [*Sanjiv Rajendra Bhatt v. Union of India*, (2016) 1 SCC 1 : (2016) 1 SCC (Cri) 193 : (2016) 1 SCC (L&S) 1], the Court restated that the accused had no right with reference to the manner of investigation or mode of prosecution. Para 68 of this judgment reads thus : (SCC p. 40)

"68. The accused has no right with reference to the manner of investigation or mode of prosecution. Similar is the law laid down by this Court in [*Union of India v. W.N. Chadha*, 1993 Supp (4) SCC 260: 1993 SCC (Cri) 1171], [*Mayawati v. Union of India*, (2012) 8 SCC 106: (2012) 3 SCC (Cri) 801], [*Dinubhai Boghabhai Solanki v. State of Gujarat*, (2014) 4 SCC 626: (2014) 2 SCC (Cri) 384], [*CBI v. Rajesh Gandhi*, (1996) 11 SCC 253: 1997 SCC (Cri) 88], [*CCI v. SAIL*, (2010) 10 SCC 744] and [*Janata Dal v. H.S. Chowdhary*, (1991) 3 SCC 756: 1991 SCC (Cri) 933]."

In view of the law laid down by the Hon'ble Supreme Court, the present petition is dismissed.

05.12.2022

Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No