

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

LPA-81-2023

Decided on: 27.01.2023

Om Uppal

.....Appellant(s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present:- Appellant-in-person.

G.S. Sandhawalia, J.

Consideration in the present Letters Patent Appeal, filed by the appellant, is to the order of the learned Single Judge dated 05.01.2023 passed in CWP-6954-2021 titled *Om Uppal Vs. State of Haryana & others*, whereby the writ petition was dismissed by the learned Single Judge.

The learned Single Judge came to the conclusion that since the matter was pending adjudication before the Magistrate regarding the incident pertaining to 16.08.2017 (Annexure P-6) whereby the accused, which included Virender Sharma had been summoned to face trial. Resultantly, the learned Single Judge found that no ground was made out to interfere in the order dated 08.10.2020 (Annexure P-19) wherein the authorities had declined to enquire and initiate any departmental proceedings on the enquiry report dated 12.03.2018 (Annexure P-14). The learned Single Judge found that it was not a case which would warrant interference while exercising the jurisdiction under Articles 226/227 of the Constitution of India and if the Court of competent jurisdiction found that

the erring official was guilty, the natural consequences would axiomatically follow.

The appellant, who is appearing in person, has vehemently submitted that his cell-phone was put to illegal surveillance which aspect has not been considered by the learned Single Judge and why Inspector Virender Sharma who was posted as SHO Kharkoda, Sonipat came to Panchkula. The explanation given that there was some personal work, had wrongly been accepted and the police department was trying to protect him. It is, thus, submitted that the information which had been taken from the authorities were done without lodging any FIR and therefore, respondent No.5, the then Commissioner of Police had misused his position.

The order which was subject matter of challenge before the learned Single Judge dated 08.10.2020 (Annexure P-19) was wherein the Director General of Police, Haryana declined to initiate any further enquiry on the complaint dated 16.08.2017 (Annexure P-6) which had been made by the present appellant who is Chartered Accountant and has been appearing in person, not only before us but before the Writ Court also.

The genesis of the dispute pertains to an earlier incident apparently of a road-rage on account of the fact that police officials had initially lodged FIR No.73 dated 31.05.2012 under Sections 323, 332, 353 & 506 IPC against the present appellant who was aggrieved against towing away of his car which was parked near the market of Sector-8, Panchkula. The appellant's grouse was against the fact that he had been illegally detained and confined in the Police Station and the said FIR eventually had been cancelled. The SHO, one Virender Sharma who is not party to

the said proceedings had been departmentally proceeded against and even an order dated 26.04.2017 (Annexure P-4) had been passed against him by the Addl. Chief Secretary to the Government of Haryana directing him that he should be shifted out of the Police Station and there was also recommendation of imposing suitably major penalty. The said person was successful in filing CWP-13633-2017 which was eventually allowed on 26.08.2022 and the said order passed was set aside on the ground that it was a review of an earlier order passed by the DGP who had exonerated the said official.

Apparently, there was encounter again between the present appellant and the then SHO which was in the Mini Secretariat, Panchkula itself on 16.08.2017 (Annexure P-6) due to which a complaint had been filed that appellant had been threatened by the said official who was accompanied with 3-4 persons. The father of the official had also submitted a similar complaint (Annexure P-9) that he along with his son Inspector Virender Sharma, elder son, Satish Kumar and one friend, Vikram, came from PGI after getting medicines to DRO Office, Panchkula for some personal work and a person who was standing there started making vulgar signals and started abusing them. He was told by his son, Virender Sharma that he was the present appellant and there is a case going on between them. They had tried to avoid him but he kept on repeatedly saying that they could not do anything and he would not leave them and spare them and used filthy language. On the same set of allegations apparently a complaint under Sections 156(3) & 200 Cr.P.C. was filed against Virender Sharma and his father, brother and a fourth person, namely, Vikram under Sections 342, 506, 34 & 120B IPC along with Sections 25 & 27 of the Arms Act.

It is a matter of record that the JMIC, Panchkula vide order dated 11.05.2018 (Annexure P-8) has also passed an order summoning the said persons under Sections 342, 506, 34 & 120B IPC along with Sections 25 & 27 of the Arms Act. The challenge to the said order was made unsuccessfully by the father of the police official wherein liberty was given in CRM-M-36152-2018 titled *Priti Pal Sharma & another Vs. Om Uppal* by a learned Single Judge of this Court who dismissed the same on 27.01.2020 by observing that parties are free to file revision petition.

On the departmental side, matter was also looked into and even the appellant was summoned by the ACP, Headquarters, Panchkula on 06.03.2019 after he was aggrieved that no action was taken and he was issued a reminder on 04.02.2019. The Assistant Commissioner of Police vide enquiry dated 12.03.2018 (Annexure P-14) had associated all concerned persons including the father of the police official who happens to be a retired Lt. Colonel and a resident of Kurukshetra. It was accordingly noticed that the said police official along with his family members had visited the DRO's office at the Mini Secretariat for some personal work and the said fact was also confirmed from the tower location of the appellant that they were also at the same location. It was also enquired that there was a report No.30 dated 15.08.2017 which had been obtained from the Police Station, Kharkhoda that the said police official had taken permission to leave station and resultantly, the Assistant Commissioner of Police recommended that the complaint be consigned to the record room.

The appellant was, thus, aggrieved against the fact that the location was sought to be confirmed on the departmental side and started giving representations against the said official, Shri A.S.Chawla, the then

Commissioner of Police, Panchkula which had been followed up repeatedly. Resultantly, the Director General of Police vide the impugned order, noticed that admission of parties was there that Inspector Virender Sharma along with his family members were present and even the present appellant had been called to come present on 27.01.2018 but he had refused to come present in the office at that point of time. Resultantly, the Director General of Police had come to the conclusion that the matter was already pending before the Criminal Court and would be scrutinized by the said Court and there was no purpose of initiating any further enquiry. The same was thus subject matter of challenge before the learned Single Judge.

The argument which has been raised that telephone record should not have been called for as it took away the privacy of the appellant, is without any basis. Apparently, on the complaint of the appellant itself, the authorities were looking into the allegations of misconduct of their own official against whom complaints were made and enquiry was being conducted as per the provisions of Section 92 Cr.P.C., which reads as under:

“92. Procedure as to letters and telegrams.

[\(1\)](#) If any document, parcel or thing In the custody of a postal or telegraph authority is, in the opinion of the District Magistrate, Chief Judicial Magistrate, Court of Session or High Court wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the postal or telegraph authority, as the case may be, to deliver the document, parcel or thing to such person as the Magistrate or Court directs.

[\(2\)](#) If any such document, parcel or thing is, in the opinion of any other Magistrate, whether Executive or Judicial, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or

telegraph authority, as the case may be, to cause search to be made for and to detail such document, parcel or thing pending the order of a District Magistrate, Chief Judicial Magistrate or Court under sub- section (1).”

The Telecom authorities had been asked to give the tower location of the appellant just to confirm whether the incident had taken place at 10 AM at the place alleged. We do not find that there is any error which was committed by the police officials in the enquiry and the appellant cannot be allowed to blow hot and cold at the same time, firstly, seeking departmental proceedings against the police official and if the veracity of his complaint had been looked into, he cannot now turn around and say that it was done at the cost of his privacy. The authorities were acting upon his representations and looking into the same and only because the conclusion arrived at is not favourable to him, he has continuously litigating and challenging every action of the authorities.

In such circumstances, we do not find any ground to interfere in the order passed by the learned Single Judge and are rather constrained to observe that the kind of litigation which has been initiated by the appellant which arises out of a decade old case of a road-rage is something which the appellant needs to be counselled upon. It is for him to reconsider whether this litigation should be continued in the manner which he is pursuing. With this piece of advice, we do not further propose to interfere in the order of the learned Single Judge who has wisely left it open since the matter is still pending before the Criminal Court for final decision as to whether any offence was made out. It is not for the Writ Court to comment upon departmental side and interfere with the same if the departmental authorities had found that no action was required and

also it had been noticed that the appellant never chose to join the proceedings when called upon.

In view of the above discussion, the present appeal is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

27.01.2023
Sailesh

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No