

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 2687 of 2023

Date of Decision: 16.02.2023

Rupinder Kaur

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. D.N.Ganeriwala and Mr. Ananya Bhardwaj, Advocates
for the petitioner(s).

Mr. D.K.Singal, Additional Advocate General,
Punjab, for the respondent No.1 to 3.

Anil Kshetarpal, J.

1. The petitioner claims to be the daughter of late Jagdish Singh alias Disha son of Chand Singh. Her father was serving as a Head Constable in Punjab Police.

2. On 21.03.1993, an FIR No. 26 was lodged with the information that Jagdish Singh alias Disha son of Bara Singh along with three other terrorists were killed in an encounter. On 25.03.1993, an FIR No. 20 was lodged with an information that three more terrorists have been killed. It is the case of the petitioner that her father was one among the persons who were so killed as he was also having the same name, namely Jagdish. The petitioner's mother filed a complaint in the Human Rights Commission claiming that her husband has been wrongly killed in a fake encounter.

However, the complaint was dismissed in the year 2007 on the ground of

being barred by limitation. Thereafter, on 10.01.2007, the petitioner's

mother filed a civil suit for grant of damages. It was alleged by her that her husband has been killed in a false and fake encounter in active connivance with the then Senior Superintendent of Police, Jagraon. The civil suit was dismissed on 28.04.2014 while recording the following findings:-

“36. On appreciating the evidence discussed above, this court is of the view that there are 2 different incident regarding which 2 different FIRs as mentioned above was registered and in one incident husband of plaintiff no.1 was got killed and in another incident hard-core terrorist Jagdish Singh alias Disha resident of Kaunke was wrongly identified. Jagdish Singh alias Disha son of Bara Singh, resident of village Kaunke has no connection with FIR No. 20 dated 25-03-93 in which husband of plaintiff number 1 was got killed.

37. Also there is delay in filing present suit. Husband of plaintiff number 1 was got killed in 1993 and Jagdish Singh alias Disha son of Bara Singh resident of village Kaunke surfaced in 2004 but this case is being filed by plaintiffs after the delay in 2007 and plaintiffs have not cited any explanation for the same. Mere taking plea without substantiating the same with cogent and convincing evidence, is of no help to the plaintiffs.”

3. Now, after a period of nearly 30 years, a writ has been filed for grant of the following reliefs:-

“(i) Writ of Mandamus ordering to set up an enquiry/commission to look into the factum of fake

encounter of petitioner's father carried out by Punjab Police and to register criminal case against the police officials responsible for the fake encounter.

(ii) *Writ of Mandamus seeking directions to the respondents No.1 – 3 to pay compensation of Rs.50 lacs along with interest at the rate of 9%.*

(iii) *Writ of Mandamus seeking appointment of petitioner or any other legal heir of Jagdish Singh @ Disha S/o Chand Singh on compassionate grounds in Punjab Police force or any other Government Department.”*

4. Heard the learned counsel representing the petitioner at length and with his able assistance, perused the paper-book.

5. The learned counsel representing the petitioner contends that in fact, Jagdish Singh alias Disha son of Bara Singh was not killed either in the incident dated 21.03.1993 or in the incident dated 25.03.1993. He submits that a writ is required to be issued to set up an Inquiry Commission to look into the factum of fake encounter. The petitioner also prays for grant of compensation of ₹ 50,00,000/- along with the interest @ 9% per annum.

6. This Court has considered the submissions and analyzed the arguments advanced by the learned counsel representing the petitioner.

7. Although this is a hard case for the petitioner, however, the Court, while exercising the writ jurisdiction under Article 226/227 of the Constitution of India, is expected to exercise the jurisdiction with prudence and circumspection. As already noticed, the petition has been filed nearly three decades after the incident. The petitioner's mother has already failed to

in the civil suit. In the civil suit, it has come on record that Jagdish Singh alias Disha son of Bara Singh was never killed in the encounter. Still, the petitioner has slept over the matter.

8. Keeping in view the aforesaid facts, this Court does not find it appropriate to entertain the writ petition, at this stage. Hence, the present writ petition is dismissed.

(Anil Kshetarpal)
Judge

February 16, 2023
“DK”

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