

101+241

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

**CM No.23 of 2023 in/and  
CWP No.6954 of 2021  
Date of decision : 05.01.2023**

Om Uppal

....Applicant/Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present : Applicant/petitioner in person.

Mr. Apoorv Garg, Dy. Advocate General, Haryana.

**PANKAJ JAIN, J.**

**CM No.23 of 2023**

This is an application filed under Section 151 Cr.P.C. for placing on record the written arguments on behalf of the petitioner.

For the reasons recorded in the application, the same is allowed. Written arguments of the petitioner are taken on record subject to all just exceptions.

**CWP No.6954 of 2021**

Present petition has been filed under Article 226/227 of the Constitution of India praying for issuance of writ in the nature of certiorari for quashing of order dated 8<sup>th</sup> of October, 2020.

2. As per the case of the petitioner, the dispute started with his illegal detention and wrongful confinement by the police in FIR No.73 dated 31<sup>st</sup> of May, 2012, registered for the offences punishable under

Sections 323, 332, 335 read with Section 506 IPC, at Police Station Sector 14, Panchkula. Petitioner submits that the case was of false implication which finally resulted in cancellation report which was accepted vide order dated 17<sup>th</sup> of December, 2012 by the Court of competent jurisdiction. Against the aforesaid illegal detention, the petitioner complained of misconduct against the erring official namely Virender Sharma. The authorities initiated departmental proceedings against the said Virender Sharma which was challenged by him before this Court in CWP No.13633 of 2017. Admittedly, the order passed by the authorities dated 26<sup>th</sup> of April, 2017 was stayed by this Court vide order dated 4<sup>th</sup> of July, 2017. The order is part of the present writ petition and placed at Annexure P-5. The petitioner was also impleaded in the said writ petition. As per the pleadings petitioner has already filed the detailed written statement and the matter is still pending before this Court. It is claimed that after the petitioner was impleaded in CWP No.13633 of 2017, the aforesaid Virender Sharma again threatened the petitioner of dire consequences if he dared to appear before the Writ Court. Petitioner claims that he reported the matter to the police authorities however, no action was taken. Constrained by the inertness on part of the police authorities, the petitioner approached the Magistrate under Section 156(3) Cr.P.C. Petitioner claims that in the said proceedings the erring official namely Virender Sharma stands summoned by the Magistrate. The petitioner approached this Court by way of CWP No.14336

of 2020 wherein he sought writ in the nature of mandamus directing the respondents to inquire into and decide the representation dated 5<sup>th</sup> of March, 2019 wherein he has highlighted various improprieties in the inquiry report dated 12<sup>th</sup> of March, 2018 pursuant to his complaint dated 16<sup>th</sup> of August, 2017. During the pendency of the said writ petition the order impugned in the present writ petition dated 8<sup>th</sup> of October, 2020 was passed and the writ petition i.e. CWP No.14336 of 2020 was disposed off in the following terms:-

“The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

It is not in dispute that the previous petition filed by Virender Sharma against the order passed by the Home Secretary, Haryana, is pending in this Court, in which an interim order has been passed. Thereafter, the petitioner alleges that another incident took place on 16.08.2017. On the basis of the aforesaid incident, a criminal complaint filed by the petitioner before the Judicial Magistrate is pending. It is also not in dispute that during the pendency of the present writ petition, the Director General of Police, Haryana, has passed an order on 08.10.2020.

Faced with this situation, learned counsel for the petitioner submits that he may be permitted to withdraw the present petition with liberty to assail the correctness of the order dated 08.10.2020.

Counsel for the respondent does not have any objection.

Ordered accordingly.”

3. The petitioner has thus filed present writ petition seeking quashing of the order dated 8<sup>th</sup> of October, 2020 passed by respondent No.2. Operative part of order dated 8<sup>th</sup> of October, 2020 reads as under :-

“7. it is also clear from the record that a complaint under section 156 (3) Cr.P.C. and 200 Cr.P.C. has also been filed by you in the Court of Ld. CJM, Panchkula with the prayer to issue directions to SHO, Police Station-5, Panchkula for registration of a case against Inspector Virender Sharma and three other accused persons under section 342, 506, 34 and 120B IPC along with section 25 and 27 of Arms act in view of allegation made in your complaint dated 16.08.2017. Summoning orders dated 11.05.2018 were issued by the Ld. JMIC, Panchkula which were challenged by the accused in CRM-M No.36152 of 2018. The petition has been dismissed by the Hon'ble Punjab and Haryana High Court vide order dated 27.01.2020 with the observation to avail the remedy of filing revision petition.

After going through above facts, I am of the considered view that the then Commissioner of Police, Panchkula while examining the entire matter sought clarifications only in order to get a clear view of the matter. Therefore, allegations raised against the officer are not made out. Further, the entire matter is sub-judice and would be scrutinized by the Ld. Courts. Hence, there is no purpose of initiating any further enquiry on the complaint dated 16.08.2017 made by you. The representation is disposed off accordingly.”

4. In the considered opinion of this Court admittedly, the departmental proceedings initiated against the erring official namely Virender Sharma were the subject matter of writ petition bearing CWP No.13633 of 2017, which stands allowed. Likewise, the allegations levelled against Virender Sharma by the petitioner *qua* incident related to 16<sup>th</sup> of August, 2017 are also pending adjudication before the Magistrate wherein Virender Sharma has been summoned to face trial.

5. In view of the aforesaid facts when the matter is sub-judice, no infirmity can be found with the order dated 8<sup>th</sup> of October, 2020 wherein the concerned authority has recorded that since the entire matter is sub-judice, there is no purpose of initiating any inquiry on the complaint dated 16<sup>th</sup> of August, 2017.
6. Needless to say in case the Court of competent jurisdiction finds the erring official guilty, the natural consequences will axiomatically follow. Thus, as a sequel of the discussion held herein above, this Court finds that this is not a case which would warrant interference while exercising jurisdiction under Article 226/227 of the Constitution of India in view of the fact that the entire matter is already pending adjudication before the Foras of competent jurisdiction.
7. Resultantly, the present writ petition is ordered to be dismissed.

**January 05, 2023**  
**Dpr**

**(PANKAJ JAIN)**  
**JUDGE**

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