

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

2023:PHHC:055986

(242)

CRM-M-16671-2022

Date of Decision: 19.04.2023

Ajit Singh

--Petitioner

Versus

State of Haryana & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Azad Singh Nain, Advocate for the petitioner.

Mr. Kirpal Singh, AAG, Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under 482 Cr.P.C praying for issuance of directions to respondent no. 3 to lodge FIR against ASI Jaipal (respondent no.5).

Vide order dated 22.4.2022 this court had issued notice of motion in this case and the State was directed to file reply. Thereafter, reply was filed by way of affidavit of Pooja Vashishth, IPS, Addl. S.P., Hisar.

Learned counsel for the petitioner submits that FIR No.669 dated 5.11.2018 under sections 147, 148, 149, 323, 324, 326, 341 and 506 IPC was registered against son of the petitioner namely Surya Dev. It is submitted that when Surya Dev was in police custody respondent no.5 tortured him by way of causing injuries to him. It is submitted that injuries caused to the son of petitioner were medically corroborated. He submits that respondent no.5 exceeded his jurisdiction and tortured the son of the petitioner without any authority and hence FIR may be registered against him and he should be prosecuted for the same. He further submits that despite various representations filed by petitioner respondent-authorities

have not taken any action till date.

On the other hand learned State counsel has vehemently opposed the submissions made by counsel for petitioner. He submits that the allegations levelled by the petitioner against respondent no.5 were duly inquired into. It is submitted that son of the petitioner namely Surya Dev is one of the accused in FIR No.669 dated 5.11.2018. It is submitted that investigation in the case is complete and challan already stands presented against the son of petitioner and two other accused. It is further submitted that learned Trial Court has already framed charges against son of the petitioner. It is submitted that the allegations made by petitioner regarding alleged torture of his son were duly inquired into. He has drawn attention of this court to the reply filed by the State. He submits that inquiry was conducted in the allegations made by petitioner and the same was entrusted to Sh. Daljeet Singh, DSP, Headquarters, Hisar who submitted a report dated 25.11.2018 in which injuries received by Surya i.e. son of the petitioner were confirmed and for displaying negligence at the time of arrest the inquiry officer recommended departmental action against respondent no.5. Thereafter, a departmental inquiry was initiated against respondent no.5 by the S.P., Hisar vide order dated 26.11.2018. Meanwhile, respondent no.5 was transferred to District Sirsa and the departmental inquiry file was sent to S.P., Sirsa for completion of further proceedings. State counsel submits that on conclusion of the inquiry it was found that there was possibility of the injuries received by the son of petitioner due to falling down on earth because of the epilepsy. Thereafter respondent no.5 was awarded a warning by S.P., Hansi vide order dated 17.9.2020. It is submitted that on conclusion of the inquiry no cognizable offence was

found to have been made against respondent no.5 and thus no FIR was recommended to be registered against him. It is further submitted that petitioner filed a complaint before HHRC, Chandigarh and vide order dated 3.8.2021 the Hon'ble Haryana Human Rights Commission, Chandigarh imposed a penalty of Rs.50,000/- as compensation upon the State Govt. The amount in question was to be disbursed to the complainant/petitioner but the petitioner declined to receive the same.

Learned counsel for the petitioner has however submitted that petitioner has not declined to receive the compensation amount awarded by HHRC, Chandigarh and he would file a fresh application before the competent authority for receiving the said compensation amount.

Having heard learned counsel for the parties and perusing the record, it is apparent that the allegations made by the petitioner have been duly enquired into by the State and a departmental inquiry was initiated against respondent no.5. On the conclusion of the inquiry no cognizable offence was found against respondent no.5, however, the compensation awarded by Hon'ble HHRC, Chandigarh had been declined by the petitioner but now counsel for the petitioner has submitted that petitioner is ready and willing to receive the compensation amount and for this purpose he would file appropriate application before the competent authority for receiving the same.

In view of the above position, present petition is dismissed. However, petitioner would be at liberty to approach the competent authority of the Hon'ble HHRC, Chandigarh for receiving the compensation amount

awarded to the petitioner. In the eventuality of any such application being filed, the concerned authority would decide the same in accordance with law.

(RAJESH BHARDWAJ)
JUDGE

19.04.2023

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	Whether Reportable:	Yes/No