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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41462-2016 (O&M)

Date of decision: 26.07.2023

Ajmer Singh

....Petitioner

versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. G.P.S.Bal, Advocate for petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

This is a petition under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') *inter alia*, seeking issuance of direction to respondent No.2-Director General of Police, Punjab to withdraw the investigation of FIR No.09 dated 01.02.2016, registered under Sections 323, 448 read with Section 511, 506, 148 read with Section 149 of IPC, at Police Station Mahilpur District Hoshiarpur and to entrust to any senior official at Police Headquarters.

2. Learned counsel for petitioner submits that petitioner is a victim of murderous assault launched by Rajiv Bali, who could not succeed in the civil litigation against the petitioner. He lodged false criminal cases against the petitioner to compel him to give up his property. In collusion with the police officials, Rajiv Bali came to petitioner's place armed with a double barrel gun and fired a shot on the petitioner. Petitioner was hit but yet police did not record proceedings. Rajiv Kumar Bali in collusion with the police officials also implicated the petitioner in a false criminal case vide FIR No.183 dated 20.10.2009 registered under Sections 365/511, 341, 506/ 34 IPC on 20.01.2012. Petitioner was acquitted by learned Trial Court and an appeal filed by Rajiv Kumar against the

order dated 20.01.2012, was also dismissed by learned Additional Sessions Judge, Hoshiarpur on 10.09.2013. Due to deliberation inaction of police to arrest Rajiv Bali, petitioner was constrained to serve legal notice to SSP, Hoshiarpur. He submits that no proper specific scientific investigation has not been conducted against the accused. Hence, the instant petition.

3. Per contra, learned State counsel, strenuously opposes the prayer made. She relies on status report dated 20.04.2018 to contend that a thorough investigation was conducted by Sh. Raj Kumar Dy.S.P. and challan was presented in Court on 22.02.2017. The said challan was submitted in the version as well as cross-version, as is borne out from order dated 24.04.2018, passed by a coordinate Bench of this Court. She further on instructions from ASI Satnam Singh submits that out of 10 witnesses, 3 have already been examined.

4. I have heard learned counsel for the parties and gone through the case file.

5. For ready reference, relevant portion of status report dated 20.04.2018 (Annexure R-1), is being reproduced, as below:

“2. It is humbly submitted that cross case under Section 307, 34 IPC was registered against Rajiv Banli and his father Kewal Krishan on the statement of the petitioner. During the investigation, Neeraj Bali brother of Rajiv Bali submitted an application No. 491-SSP dated 05.02.2016 to the SSP Hoshiarpur for enquiry into above mentioned cross case registered against his brother Rajiv Bali and father Kewal Krishan and the said application was marked to the deponent and the deponent conducted enquiry into above said cross case and found accused Kewal Krishan to be innocent in the above mentioned cross case and also found that the offence under section 307 IPC was not committed and offence under section 336 IPC was committed and therefore offence under section 307 IPC was deleted and offence under section 336 IPC was added in above said cross case. The accused Rajiv Bali arrested in above said cross case on 12-9-2016 and he was released on bail as the offence under section 336 IPC is bailable.

3. That after completion of investigation, the challans of version and cross version were prepared by

the SHO PS Mahilpur District Hoshiarpur and the same were presented in the court of MsDamandeep Kamal Heera JMIC Garhshankar on 22-2-2017 and now the case is fixed for 19.4.2018 for framing of charges.

In view of the submissions made above, the present petition is not maintainable and is liable to be dismissed.”

6. Reply/status report dated 20.04.2018 on affidavit filed on behalf of respondents No.1 to 5 shows *inter alia* that cross case under section 307/34 was registered against Rajiv Bali and his father Kewal Krishan on the statement of the petitioner. It falsifies the allegations herein that the local police did not record the petitioner's version. Further, after completing the investigation, challan has already been filed in the Court and the trial is in progress. In view of this, the petitioner's prayer for withdrawal of investigation of the case from local police and its entrustment to senior official at Police headquarter withdrawal of investigation is rendered infructuous. That apart, status report dated 20.04.2018 reveals that the investigation of the present case was supervised and monitored from all angles by senior police officers. Investigation of a case cannot be transferred at the whims and fancies of either party. It is not a fit case to seek intervention of any specialized investigation or handing it over to another agency. Reference may be had to Apex Court judgments in **Sakiri Vasu versus State of U.P and others¹** and **Sudhir Bhaskarrao Tambe versus Hemant Yashwant Dhage and others²** wherein it is observed that High Courts in the country have been flooded with petitions praying either for registration of FIR or for a proper investigation.

7. Further, in the instant case, since the trial has commenced and three witnesses have already been examined. Section 173 (8) Cr.P.C. empowers the investigating agency to conduct further investigation if it is so warranted depending on the subsequent developments in a case.

¹2008 (2) SCC 409

²(2016) 6 SCC 277
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I attest to the accuracy and
integrity of this order/judgment

9. In the premise, instant petition is disposed of as no interference is warranted.
10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

26.07.2023
vandana

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