

CRM-M-23589 of 2023

2023:PHHC:067726

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

CRM-M-23589 of 2023  
Date of decision: 10.05.2023

Gurvinder Singh

.....Petitioner

versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: Mr. Aakash Singla, Advocate, for the petitioner.  
Mr. Adhiraj Singh, AAG, Punjab.

**NAMIT KUMAR, J.**

1. This petition has been filed by the petitioner under Section 482 Cr.P.C. for issuance of directions to respondent No.3 not to harass the petitioner in violation of Section 160 Cr.P.C and Section 41-A Cr.P.C. on account of enquiry in District Malerkotla in complaint dated 03.04.2023 (Annexure P-8) filed by respondent No.7 with regard to dispute pertaining to District Ludhiana.

2. Learned counsel for the petitioner contended that in the year 2021 petitioner started business of pig farming by taking 2 bighas of land on rent from one Amrik Singh resident of Villaga Khatra, Tehsil and District Ludhiana w.e.f. 15.02.2021 to 15.01.2022. Thereafter, respondent No.7-Sandeep Singh became partner with the petitioner by contributing some amount. He further submitted that on account of widespread FMD disease in the State of Punjab in the year 2021 many animals died and remaining animals were sold for Rs.5,76,000/-. He further submitted that account of respondent No.7 was settled by the petitioner by paying him an

CRM-M-23589 of 2023

**2023:PHHC:067726**

amount of Rs.4,76,000/- vide cheque dated 20.12.2021. Thereafter, petitioner again started the business of pig farming without involvement of respondent No.7 by taking the land from Amrik Singh on rent w.e.f. 15.04.2022 to 15.03.2023. He further submitted that on 11.05.2022 respondent No.7 tried to trespass in the said farm of the petitioner and attacked the petitioner and his wife. In this regard, wife of the petitioner submitted a complaint (Annexure P-1) to respondent No.4-Commissioner of Police, Ludhiana on 11.05.2022, however, no action was taken on the said complaint due to influence of respondent No.7. He further submitted that due to interference by respondent No.7 in peaceful possession of the petitioner in the said pig farm situated in District Ludhiana, petitioner filed civil suit for permanent injunction against Amrik Singh in which he was granted *ex parte* interim stay by the Court of learned Civil Judge, Ludhiana, vide order 19.05.2022 (Annexure P-2). He further submitted that after interim order of *status quo* passed by the trial Court, Ludhiana, respondent No.7, filed false complaints in District Malerkotla and also lodged a false FIR in Malerkotla. He further submitted that with regard to dispute pertaining to District Ludhiana, respondent No.7 is filing false complaint in District Malerkotla. He further submitted that police has neither issued notice under Section 41-A Cr.P.C. nor Section 160 Cr.P.C. and in absence thereof, petitioner and his wife are being harassed by official respondents by calling them in the police station and they are made to sit for the whole day and pressure is being built upon them to settle the matter with respondent No.7 by paying him illegal money.

3. In support of his contentions, learned counsel for the petitioner

CRM-M-23589 of 2023

2023:PHHC:067726

relies upon the judgment of the Madras High Court in ***Crl.O.P.(MD) No.12309 of 2021 - A. Daniel v. The Superintendent of Police, Sivagangai, District Sivagangai and another*** – decided on 26.08.2021.

4. Notice of motion to respondents No.1 to 6 only at this stage.
5. Mr. Adhiraj Singh, AAG, Punjab, accepts notice on behalf of respondents No.1 to 6-State.
6. Before proceeding further, it would be appropriate to refer to Sections 41-A and 160 Cr.P.C., which read as under: -

*“41A. Notice of appearance before police officer.-- (1) The police officer shall, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.*

*(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.*

*(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.*

*(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.*

**160. Police officer's power to require attendance of witnesses.**

*(1) Any police officer, making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any*

*adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required: Provided that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides.*

*(2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub- section (1) at any place other than his residence.”*

7. Perusal of Section 160 Cr.P.C. makes it clear that a police officer investigating a case can require the attendance of any person who is residing within the limits of his own and any adjoining police station and who appears to be acquainted with the facts of the case under investigation.

8. The Madras High Court in **A. Daniel’s** case (supra) has issued following directives: -

*“a) While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall summon such person through a written notice specifying a particular date and time for appearing before them.*

*b) The respondent police is directed to serve notice mentioning the CSR number, date of complaint and the name of the complainant.*

*c) The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.*

*d) The guidelines stipulated for preliminary enquiry or registration of FIR by the Hon'ble Supreme Court in **Lalita Kumari v. Government of Uttar Pradesh and others [2014 (2) SCC (1)]** shall be strictly adhered to.*

*e) During the course of enquiry, if it is found that any*

CRM-M-23589 of 2023

2023:PHHC:067726

*cognizable offence is made out, the respondents are free to register the First Information Report and this order shall not be a shield for the petitioner against the action taken by the respondent in accordance with law.”*

9. There are catena of judgments/dictum laid down by the Hon’ble Supreme Court that inherent powers under Section 482 Cr.P.C. have to be exercised sparingly, carefully and with caution. At the same time, this Court is also duty-bound to issue directions on the basis of facts of each and every case, if so warranted. In present case, relief sought is only to the extent of compliance of mandatory provisions of law given under Section 160 Cr.P.C.

10. In view of the provisions envisaged under Section 160 Cr.P.C. and the directives issued hereinabove, present petition is disposed of with a directions to respondent No.3 that if at any stage, petitioner is required to be summoned in connection with enquiry/complaint dated 03.04.2023 filed at the instance of respondent No.7-Sandeep Singh, in such eventuality necessary provisions as mandated under Section 160 Cr.P.C. shall be complied with by the investigating officer.

11. With the above observations, the present petition is disposed of accordingly.

10.05.2023  
R.S.

(NAMIT KUMAR)  
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No