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2023:PHHC:070463

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24869-2023
DECIDED ON: 16.05.2023

SUNNY

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Nirmal Sharma, Advocate for
Mr. Akhilesh Vyas, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 482 Cr.P.C., for issuance of directions to the respondents No.2 & 3 for conducting fair, impartial and proper proceedings by taking action on the representation dated 15.11.2022 (Annexure P-3) in view of the law laid down in “**Lalita Kumari vs. Government of U.P. & others**” 2014(1) SCC (CrI) 525” on the allegations of misuse and abuse of public posts and powers acting in connivance with private respondents No.5 to 20.

2. It is an admitted case of the petitioner that first representation was made on 09.11.2022 (Annexure P-1) and the second in the chain is dated 15.11.2022 (Annexure P-3) upon which allegedly, no action has been taken, except that the petitioners were called to the police station for recording of statements.

3. Mr. Sharma, learned Advocate urges that the respondent No.3 i.e. Commissioner of Police, Amritsar has failed to perform his duty by restraining

the private respondents for indulging into illegal activities and is rather hand

in gloves with respondents No.5 to 20, who are still continuing and pressurizing and threatening the petitioner with dire consequences in case any FIR is got registered against them.

4. Relying upon the mandate of ***Lalita Kumari's case (supra)***, the petitioner has sought action on the representation by registration of an FIR for the commissioning of offence qua respondents No. 5 to 20, which are cognizable in nature.

5. A perusal of the petition as well as inability on behalf of the petitioner to refer to any specific instance and date with regard to advancement of any threat, who has not even disclosed the date on which petitioner was called to the police station for recording of statements, suffices to help this Court to conclude that the allegations in the representations dated 09.11.2022 and 15.11.2022, Annexures P-1 and P-3 respectively, as well as in the petition are totally vague wherein, by no stretch of imagination commissioning of any cognizable or non-cognizable offence could be found to fit within the guidelines framed by the Apex Court judgment in ***Lalita Kumari's case (supra)***, which reads as under:-

“i) Registration of FIR is mandatory under Section 154 the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such

closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

a) Matrimonial disputes/ family disputes

b) Commercial offences

c) Medical negligence cases

d) Corruption cases

e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be

mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.”

6. Apart from the afore-said discussion another aspect cannot be lost sight by the Court is that even the last representation was made admittedly on 15.11.2022 i.e. almost six month prior to the filing of instant petition on 12.05.2023. On another factor as well there is no explanation and in fact inference could be easily drawn that instant petition is only a clever device with the motive to use it as an arm twist as an after thought after lodging of an FIR against the petitioner, his brother and father by the private respondent No.19-Paramjit Kaur bearing FIR No. 004, dated 21.04.2023, under Sections 302, 341, 354, 511 and 34 IPC at Police Station Mohakampura. Above all even in the last these six months since 15.11.2022, there is no reference or any iota of material put forth even with the instant petition to demonstrate any kind of harassment, use of force/coercion or an advancement of threats to the petitioner at the hands of private respondents No.5 to 20.

7. Hence, this Court is of the firm view that the present petition is nothing but is wholly misconceived and mischievous devise as an after thought to counterblast the FIR No. 004, dated 21.04.2023 lodged by respondent No.19-Paramjit Kaur, which absolutely fails for any kind of interference by this Court to exercise inherent powers under Section 482 Cr.P.C., therefore, the petition is ordered to be dismissed.

(SANDEEP MOUDGIL)
JUDGE

16.05.2023

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>