

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CWP-16770 of 2019

Date of decision: 04.10.2023

Daljit Singh

...Petitioner

Versus

State of Punjab and Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Ravish Bansal, Advocate for
Mr. Ashok Singla, Advocate for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

Mr. Mandeep K Dhot, Advocate for respondent Nos.3 to 6.

VINOD S. BHARDWAJ, J. (ORAL)

The challenge in the instant writ petition is to order dated 24.04.2019 (P-3) passed by the Punjab State Commission for NRI's-respondent No.2 (for brevity 'the NRI Commission'), whereby the Commission has recommended the police authorities for filing cancellation report in FIR No.141 dated 31.08.2018 under Sections 420, 406, 120-B IPC, registered at PS Sadar Dhuri, District Sangrur in violation of law laid down by a Division Bench of this Court in a judgment reported as **Jatt Ram Vs. Punjab State Human Rights Commission, 2005 (3) RCR (Criminal) 716** and the judgment of Hon'ble Supreme Court reported as **'Satvinder Kaur Vs. State (Govt of NCT of Delhi), 1999 AIR (SC) 3596,** wherein it was specifically held that the Commission does not exercise powers of the Court and cannot direct re-investigation of the matter or steer investigation in any particular manner.

Learned counsel for the petitioner has submitted that the petitioner had been residing in Kuwait for last more than three decades. The petitioner as well as respondent No.3 had solemnized simple marriage on 08.08.2002. The

petitioner took his wife on family visa to Kuwait after the marriage, where he was residing since 1986. Parties were blessed with two children.

On 19.03.2017, respondent No.3 came to India along with both the children from Kuwait on the pretext of meeting other private respondents. She brought along with her 2000 dinar and about 1 kg of gold. Thereafter, she chose not to return back or contact the petitioner. Being suspicious, the petitioner came to India and found that all the articles had been misappropriated by respondent No.3 and private respondents by acquiring properties in their own names. The petitioner thereafter filed a complaint and after conducting of an inquiry, the abovesaid FIR was registered at Police Station Sadar Dhuri, against the private respondents for cheating the petitioner and committing criminal breach of trust. The investigation in the said case was initiated and the investigating agency was in the process of filing a final report when respondent No.3 approached the NRI Commission for issuing directions to the Police Station Sangrur for conducting proper and fair investigation in the above said FIR.

Vide its order dated 24.04.2019, the NRI Commission directed as under:-

'In view of the above facts, the Commission is of the view that police has registered case FIR No.141 dated 31.08.2018, against Sikander Kaur (complainant) and her family members on false grounds on the complaint given by Daljit Singh, husband of the complainant, whereas, the complaint filed by Sikander Kaur (complainant), against her husband Daljit Singh, was not inquired into with due diligence and was filed by the police on flimsy grounds. It is therefore, recommended that FIR No.141 dated 31.08.2018, under Sections 406, 420 and 120-B IPC, at PS Sadar Dhuri, against the complainant and her family members should be cancelled being a case of civil nature, let Daljit Singh pursue his case in Civil Court.

Thus, a recommendation is made that a cancellation report be filed in FIR No.141 dated 31.08.2018, under Sections 406, 420 and 120-B IPC, at PS Sadar Dhuri.

Disposed off.

'Parties be intimated.'

(emphasis supplied)

Learned counsel for the petitioner contends that vide abovesaid impugned order, the Commission has issued directions to the investigating agency (under the garb of recommendation) to submit the cancellation report in the said FIR and has also impugned the investigation conducted by the Investigating agency. A finding has been recorded that the case is civil in nature. It is submitted that the NRI Commission cannot interfere with the process of investigation/criminal law and cannot issue any directions to the investigating agency to act or conduct itself in any particular manner. Investigation being a prerogative of the investigating agency, the powers of the NRI Commission do not travel to the extent whereby directions of such kind, under the guise of recommendations, can be issued. The order thus, travels beyond the powers of the NRI Commission and is contrary to the law laid down by this Court as also by the Hon'ble Supreme Court in the afore mentioned cases (supra).

Learned counsel appearing on behalf of the contesting private respondents has however, contended that the investigating agency had already filed a charge sheet before the abovesaid order was passed by the NRI Commission on 24.04.2019 and that they had moved a discharge application. He, however, could not refer to any provisions of law under which the NRI Commission could have issued directions to the investigating agency and/or to establish that issuance of such as above recommendations or returning of such findings in ongoing investigation was within the domain of NRI Commission. No judgment or law has been referred to by the private respondents to distinguish that the ratio of law laid down by the Hon'ble Supreme Court in **Satwinder Kaur's case (supra)** and the ratio laid down by the division Bench of this Court in **Jat Ram's case (supra)** are not applicable to the facts of the present case.

In view of the foregoing discussion, present petition is allowed. Order dated 24.04.2019 (P.3) passed by the NRI Commission is set aside to the extent whereby the NRI Commission has returned a finding with respect to conduct of investigation in case FIR No.141 dated 31.08.2018 under Sections 420, 406, 120-B IPC, registered at PS Sadar Dhuri, District Sangrur and has issued recommendations/directions to submit cancellation report.

The pending proceedings before the learned Illaqa Magistrate on the final report so filed shall thus be decided inter se on the merits of the claim.

It is further contended by learned counsel representing the respondents that insofar as the FIR against respondent No.3 is concerned, the same has already been quashed by this Court and the said fact is not denied by learned counsel for the petitioner.

Be that as it may, said fact does not have any further impact beyond the issue which is pending before the Illaqa Magistrate. The quashing of the proceedings against respondent No.3 is an independent act and does not, in any manner, amount to revival of proceedings against a person qua whom proceedings have been quashed or have attained finality before a competent Court, the scope before this Court is confined only to the order of NRI Commission and its validity.

Accordingly, petition is allowed.

04.10.2023

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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No