

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

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CWP-16587-2020 (O&M).
Date of Decision: 04.07.2023.

JASPREET SINGH DHALIWAL @ JASPREET SINGH @ PEETA

... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. G.S. Nahel, Advocate, for the petitioner.
Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been filed for seeking issuance of directions to the respondents to issue Police Clearance Certificate to the petitioner which has been denied for the reason that the name of the petitioner surfaced in FIR No.64 dated 21.09.2019 registered at Police Station Sehna, District Barnala.

Learned counsel appearing on behalf of the petitioner contends that the above said case had been registered on the statement of one Jagjit Singh alleging that on the intervening night of 20th/21st September 2019 four persons with muffled faces had entered the house of the complainant

and started beating his son Harpreet Singh and also caused injuries to him. One of the persons was identified as Baljinder Singh and the other persons remained unidentified.

Thereafter, a supplementary statement of Harpreet Singh was recorded on 27.09.2019 under Section 161 of the Code of Criminal Procedure nominating the petitioner along with co-accused Amandeep Kaur @ Amandeep Sharma. The petitioner was arrested in the above case on 09.10.2019.

An application was thereafter moved by the wife of the petitioner to the office of the Senior Superintendent of Police, Barnala, regarding false implication of the petitioner. An inquiry on the said application was marked to the Deputy Superintendent of Police (Special Branch), Barnala, who conducted a thorough investigation in the matter and submitted his report dated 25.10.2019 in which the present petitioner was declared innocent. An application for discharging the petitioner was then moved by the Investigating Officer which was allowed on 05.11.2019.

Upon culmination of the investigation, a final report under Section 173 of the Code of Criminal Procedure was submitted by the SHO, wherein the petitioner was not amongst the accused charge-sheeted by the Investigating Agency.

The petitioner thereafter applied for Provincial Nominee Program in Manitoba province of Canada and was to apply for grant of Citizenship and Immigration. He thus submitted an application for Police Clearance Certificate. The respondent-Investigating Agency furnished a

report that the Police Clearance Certificate was not recommended for no reason. Hence, the present petition has been filed.

Reply on behalf of respondents no.1 to 3, had been filed wherein the entire factual aspect remains undisputed.

Learned counsel appearing on behalf of the petitioner contends that as per the information received under the Right to Information Act and appended as Annexure P-4, the Police Clearance Certificate had been denied for the reason that the above said FIR dated 21.09.2019 under Sections 458, 323 and 34 of the Indian Penal Code was under investigation. He submits that thereafter the petitioner has already been discharged and even in the final report that has been filed, the petitioner is not an accused. It is contended that the charge against the other accused have already been framed on 23.04.2021 and that the petitioner is not required in the above said case. Hence, the denial of the Police Clearance Certificate on the pretext that the FIR is under investigation is thus no more available. The respondents ought to reconsider the issuance of Police Clearance Certificate in the light of subsequent developments that had taken place.

Learned counsel for the respondent-State is not able to controvert the fact that the petitioner was found innocent during the course of investigation and that even in the charge-sheet so filed, the petitioner does not figure as an accused.

Having heard the learned counsel for the respective parties and taking into consideration the impugned communication received citing pendency of investigation as a reason to deny the Police Clearance

Certificate and challenged as Annexure P-4 is set aside in view of the subsequent developments as per which the investigation is not only complete but also the petitioner has been found innocent. The respondent No.2-the Senior Superintendent of Police, Barnala is directed to re-examine the request of the petitioner for the grant of Police Clearance Certificate in the light of subsequent developments and reconsider the request of the petitioner in light of the above developments.

The petition is allowed accordingly.

July 04, 2023
raj arora

(VINOD S. BHARDWAJ
JUDGE

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