

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.219

CRWP-8097-2022 (O&M)
Date of Decision:15.02.2023

Nitin and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. G.B.S Dhillon, Advocate, Mr. J.S. Bhatia, Advocate,
Mr. S.K Garg Narwana Sr. Advocate, Mr. Baltej Singh Sindhu
Sr. Advocate with Mr. Sarvesh Kumar Gupta Advocate and
Mr. Lekh Raj Sharma, Advocate, for the petitioners.

Mr. Deepak Sabherwal, Addl.A.G. Haryana.

Mr. U.K Agnihotri, Advocate with
Mr. Anshul Agnihotri, Advocate
for respondents No.4 to 12.

Mr. Sartaj Singh Narula, Advocate for
respondents No.13 to 15.

Mr. M. S Bajwa, DAG, Punjab.

Mr. Dushyant Rana, Addl. PP for UT Chandigarh.

N.S. SHEKHAWAT, J.

The present petition had been filed with a prayer to direct respondents No.1 to 3 to protect the life and liberty of the petitioners, as they apprehended imminent threat at the hands of respondents No.4 to 12.

The said petition was filed by Mr. Sarvesh Kumar Gupta, Advocate on 23.08.2022, which came up for hearing before this Court on 25.08.2022. On the request made by learned counsel for the petitioners, the

case was adjourned to 29.08.2022. In the meantime, Mr. Sarvesh Kumar Gupta, learned counsel for the petitioners, filed an application CRM-W-1130-2022 in the main petition, alleging, inter-alia, that on 23.08.2022, three police officials including one lady official forcibly entered his house and threatened his wife and snatched her mobile phone also. They searched the house of learned counsel to find out the petitioners, but could not find them. At that time, learned counsel representing the petitioners was not at home. By way of the said application, learned counsel also placed on record copy of representation dated 23.08.2022 submitted to the Commissioner of Police, Gurugram, CCTV footage and CD as Annexures P-8 to P-11. Serious allegations were levelled by Mr. Sarvesh Kumar Gupta, Advocate against the police officials.

The said application filed by Mr. Sarvesh Kumar Gupta was taken up on 29.08.2022 and notice was issued to the State of Haryana. Considering the nature of allegations made in Annexures P-8 and P-9, it was expected that the allegations would be enquired into by the Commissioner of Police, Gurugram and the affidavit would be filed within one week and the case was adjourned to 07.09.2022. Again on 07.09.2022 the case was taken up and the learned Additional Advocate General, Haryana, filed an affidavit dated 06.09.2022 of the Commissioner of Police, Gurugram. As per the affidavit, a departmental enquiry had been initiated and show cause notice had been issued. Learned State counsel further stated that the police officials concerned had been suspended with immediate effect and prayed for two weeks time to conclude the enquiry. This Court granted 04 weeks' time to do the needful.

In the meantime, another affidavit dated 11.10.2022 of the

Commissioner of Police, Gurugram, was filed before this Court. As per the said affidavit, an enquiry was initiated by the Commissioner of Police, Gurugram in the matter and the statements of P/SI Manjit, ASI Mahesh and L/ASI Nancy were recorded on 02.09.2022 . Even the said three officials were placed under suspension on 07.09.2022. Still further, DCP Manesar, visited the site of alleged incident, i.e. residence of Mr. Sarvesh Kumar Gupta and Motel Himalaya, Nayagaon. SAS Nagar and also obtained CCTV footage of both the sites. He also recorded the statements of Mr. Sarvesh Kumar Gupta, Advocate, his wife Mrs. Renu Gupta and Receptionist of Motel Himalaya. Further, the CCTV footage at the gate of residence of Mr. Sarvesh Kumar Gupta and the CCTV footage outside the Motel Himalaya, Nayagaon, District SAS Nagar, were also analysed by the Commissioner of Police during the course of enquiry. After going through the statements of affected parties and CCTV footages, the Commissioner of Police, Gurugram, arrived at a conclusion that the allegations levelled by Mr. Sarvesh Kumar Gupta, Advocate, against police officials, i.e. P/SI Manjit, ASI Mahesh and L/ASI Nancy were not proved. Even a detailed enquiry report submitted by the Commissioner of Police, Gurugram was annexed as Annexure D1 along with her affidavit.

On 02.02.2023, again the case was heard at length. The State of Punjab was impleaded as respondent No.16 in the present petition and learned State counsel was directed to file the latest status report with regard to investigation of the case FIR No.73 dated 01.09.2022 by way of personal affidavit of Senior Superintendent of Police, SAS Nagar. Apart from that, P/SI Manjit, ASI Mahesh and L/ASI Nancy were ordered to be impleaded as respondents No.13 to 15.

In compliance of the order dated 02.02.2023, a status report by way of SSP, SAS Nagar, was filed on behalf of respondent No.16 on 13.02.2023 and the police was directed to investigate FIR No.73 dated 01.09.2022 fairly and in accordance with law.

Today again, Mr. Sarvesh Kumar Gupta, Advocate as well as learned counsel for the parties were heard at length.

Learned counsel appearing for the State of Punjab, on instructions from Mr. Jatinder Pal Singh, DSP (Crime Against Women), Mohali, submits that an offence under Section 452 IPC has been added during the course of investigation and the investigation has been handed over to the SIT, which is headed by Dr. Darpan Ahluwalia, IPS, Additional Superintendent of Police. He has assured the Court that the matter shall be investigated fairly and in accordance with law. It is expected that SIT shall investigate the matter strictly, in accordance with law and the final report of investigation shall be submitted as early as possible.

Apart from that, the departmental action had already been initiated by the Commissioner of Police, Gurugram and a detailed enquiry report (D-1) has already been filed by the Commissioner of Police, Gurugram along with her affidavit dated 11.10.2022. It has been found that the allegations levelled by Mr. Sarvesh Kumar Gupta against P/SI Manjit, ASI Mahesh and L/ASI Nancy had not been proved during the course of inquiry against the said officials.

In view of the above, Mr. Sarvesh Kumar Gupta, Advocate or any other aggrieved person is at liberty to challenge the said enquiry proceedings/conclusions, in accordance with law.

Needless to mention that the conclusions have been recorded

by the Commissioner of Police, Gurugram in the enquiry report based on the evidence led during the course of departmental enquiry. The SIT headed by Dr. Darpan Ahluwalia, IPS shall investigate the case FIR No.73 dated 01.09.2022 without being influenced by the findings recorded by the Commissioner of Police, Gurugram in the departmental enquiry (D-1) and the SIT shall proceed on the material collected by them during the course of investigation only.

The SIT headed by Dr. Darpan Ahluwalia, IPS, is expected to act fairly and the investigation shall be conducted expeditiously. If Mr. Sarvesh Kumar Gupta, Advocate or any other person is aggrieved by the findings recorded by the SIT, he may avail his remedies, in accordance with law.

With these above observations, the present petition stands disposed off.

15.02.2023
mks

(N.S. SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO