

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-38492 of 2020
Date of Decision: January 04, 2023

Sohan Lal and another

.....Petitioners

versus

State of Haryana and others

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present:- Mr. Arav Gupta, Advocate
for the petitioners

Mr. Deepak Grewal, DAG Haryana

Sudhir Mittal, J. (Oral)

On a complaint submitted by respondent No. 5, FIR No. 464 dated 28.11.2019 was registered against the petitioners at Police Station Matlauda, District Panipat under Sections 370, 406, 420, 506 IPC. Challan was presented on 20.03.2020 wherein petitioner No. 1 was kept in column No. 2. Petitioner No. 2 was challaned only under Sections 406, 420 IPC. The complainant then submitted an application before the Superintendent of Police, Panipat on 11.06.2020 whereupon vide order of even date the said official directed constitution of a Special Investigation Team. Further, vide order dated 25.06.2020 re-investigation was ordered. These directions are under challenge in this case.

Learned counsel for the petitioners has relied upon *Vinay Tyagi vs. Irshad Ali and others, 2013(5) SCC 762* and judgment dated 16.09.2020 passed in Writ Petition (Crl.) No. 141 of 2020 *Neetu Kumar Nagaich vs. State of Rajasthan and others* to submit that re-investigation can only be ordered by the Constitutional Courts. The police has no authority to issue any such direction.

Even further investigation can be ordered by the trial Court only. Thus, the

directions dated 11.06.2020 and 25.06.2020 being without jurisdiction deserve to be quashed.

Learned State counsel has no answer to the legal submissions made.

In ***Vinay Tyagi (supra)***, it has been held as under:-

“No investigating agency is empowered to conduct a 'fresh', 'de novo' or 're-investigation' in relation to the offence for which it has already filed a report in terms of Section 173 of the Code. It is only upon the orders of the higher courts empowered to pass such orders that aforesaid investigation can be conducted, in which event the higher courts will have to pass a specific order with regard to the fate of the investigation already conducted and the report so filed before the court of the learned magistrate.”

Similar observations have been made in ***Neetu Kumar Nagaich*** (supra). It is, thus, evident that directions issued by the Superintendent of Police, Panipat are without jurisdiction. The petition is, accordingly, allowed and directions dated 11.06.2020 for constitution of SIT and that dated 25.06.2020 for further re-investigation are quashed. Supplementary challan presented during the pendency of this petition is also quashed.

(SUDHIR MITTAL)
JUDGE

January 04, 2023

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No