

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-46966-2022
Date of Decision : April 19, 2023

Sumitra Rani and anotherPetitioner

Versus

State of Haryana and othersRespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Petitioner No. 2 in person.
Mr. R. K. Ambavta, AAG Haryana.

HARKESH MANUJA, J

By way of present petition filed under Section 482 Cr.P.C., prayer was primarily made for issuance of direction to the respondent no.2 to 4 to take necessary & appropriate action and conduct fair and speedy investigation against the accused Kuldeep Rana/ respondent no.5 in FIR No.586 registered u/s 380 and 457 of IPC, at Police Station, Sector 32/33 Karnal and recover the lost house hold articles, ornaments, cash etc. & to put the said FIR to logical end with further prayer that Respondent No.4 may be directed to furnish the Status Report of the action initiated in this FIR.

At the initial stage of the proceedings before this Court, it was submitted by petitioner No 2 that on account of a large scale theft committed in the house of the petitioners, they lodged FIR bearing no.586 dated 18.08.2022 under section 380 and 457 of IPC 1860 against the Respondents No.5 at police station sector 32/33 Karnal; but neither any effective action was taken by respondents No.2 to 4; nor proper investigation in the matter was being carried out. It was also submitted that

both the petitioners are women having no male member in their family and are helpless after the murder of only son of petitioner no.1 and the official respondents have connived with respondent no. 5 which is apparent by the fact that they have not taken any appropriate action in the said FIR.

This Court vide order dated 12.10.2022 issued notice of motion to respondents No.1 to 4 only and in view of the specific allegations made against the police officials, directed that the status report/affidavit be filed by an officer not below the rank of Inspector General of Police. Subsequently on 01.11.20122, specific directions were issued regarding the security of the petitioners and affidavit being filed by the Inspector General of Police, relevant part of which is reproduced as below:

“In view of the request made by the, two weeks' time is granted to the State to file affidavit with the following directions:-

- 1. It shall be duty of the Superintendent of Police, Karnal to ensure protection of life and property of the petitioners, and to also ensure protection when the petitioners visit District Karnal. The Superintendent of Police, Karnal may also depute some responsible police officials in this regard. Any negligence by the Superintendent of Police, Karnal shall be viewed very seriously.*
- 2. The affidavit in the present case shall be filed by the Inspector General of Police himself well before the next date of hearing, with an advance copy to the petitioners. In case the affidavit is not filed before the next date of hearing, then the Inspector General of Police, Karnal shall remain present in Court.”*

Thereafter, necessary directions were issued by this Court from time to time and vide order dated 03.3.2023 report was also called from the concerned Illaqa Magistrate regarding final investigation report under section 173 Cr.P.C., filed by the police and vide order dated 21.3.2023, some more time was granted to the State to file the same. In pursuance to these orders, an affidavit dated 04.04.2023 has been filed by Superintendent of Police, Karnal vide which copy of final report under section 173 Cr.P.C. is also attached as Annexure-R1.

It is pertinent here to note that initial investigation in this case was carried out by SI Ramphal, SHO P.S. Sector 32-33 Karnal, however, as per order No.15587-90/Reader dated 21.10.2022, from the Office of Inspector General of Police, Karnal Division, Karnal, SIT was constituted for the further investigation of this case, in which Mr.Gaurav Phogat, Deputy Superintendent of Police, Karnal-2, Chairman, Inspector Gurvinder Singh Incharge CIA-1 Karnal and SI Anil Kumar Incharge Detective Staff Karnal were appointed members, upon which, further investigation of the case was conducted by the Special Investigation Team from 27.10.2022.

Gist of the final report filed under section 173 Cr.P.C. is that earlier, petitioners used to live in House No, 1110 in Sector 9 Karnal and the accused Kuldeep Rana resided in House No, 1111 in Sector 9 Karnal. Both being neighbors, had prior litigation history as well. Accused Kuldeep Singh son of Tejpal Singh resident of House No.1111 Sector-9, Karnal, age about 58 years was asked to join the investigation and his statement was recorded and documents provided by him were taken on record. On multiple occasions, members of the investigation teams informed the

complainant/ petitioner No 2, Swati Kataria for joining the investigation as per her convenience, and to inform about the facts of the allegations and the details of the stolen goods, but despite giving information repeatedly, the complainant did not join the investigation.

Accordingly, on the basis of the facts coming out from the investigation carried out in the case and from the investigation of Kuldeep Singh/ respondent no.5, neighbors living around the spot, and from the records produced by Kuldeep Singh, neither the allegations against Kuldeep Singh were found to be confirmed nor there has been any clue of the person committing any type of theft. It has finally been observed in the report that the above matter is going on under investigation for a long time, which is futile to be kept under further investigation, so the above report is being sent for consideration, however, in future, if any other facts about this allegation come to the fore or any clue about the incident is found, then the re-investigation of the allegation will be implemented as per the rules.

In view of the above report, it has been submitted in affidavit dated 04.04.2023 filed by Superintendent of Police, Karnal that after completion of the investigation, untraced report has been written by SHO Police Station Sector 32-33, Karnal and same was submitted before the Ld. Illaqa Magistrate, Karnal on 02.03.2023 for further proceedings and now, the next date in the present matter is fixed on 09.06.2023 for fresh notice to the complainant.

In view of the aforesaid circumstances, prayers made by the petitioners have virtually become infructuous as investigation has been carried in the present case/FIR and report u/s 173 Cr.P.C. has been

prepared and presented before the Ld. Court of competent jurisdiction. Delving further into this matter would not be appropriate as matter involves disputed questions of facts and notice has already been issued to the petitioners by the leaned Trial Court.

In view of the discussion made above, present petition is disposed off as infructuous. If petitioners are not satisfied with the report files u/s 173 Cr.P.C., they are at liberty to avail remedies in accordance with law including filing the protest petition before the Ld. Trial Court.

It is pertinent to notice here that in para number 1 and 2 of the affidavit dated 04.04.2023, security provided to the petitioners have also been detailed out. It is clarified that security provided to the petitioners shall continue till 17.11.2023 in compliance of order dated 18.11.2022, however, after that period, security provided to the petitioners may be reviewed after analyzing the threat perception against them.

Disposed off accordingly.

Pending application (s), if any, shall also stand disposed of.

April 19, 2023
sanjay

[HARKESH MANUJA]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no