



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-M-5998-2024

Date of Decision: 05.02.2024

SUBEG SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Karanjeet Singh Brar, Advocate
for the Petitioner.
Ms. Sanish Girdhar, AAG, Punjab.

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under section 482 Cr.P.C. for setting aside the order dated 18.10.2023(Annexure P-3) passed by Additional Sessions Judge, Fazilka on an application filed by the SHO concerned for the amendment in the order dated 19.08.2023(Annexure P-2) passed by the Judge, Special Court, Fazilka and further to direct the SSOC Police station, Fazilka to preserve the CCTV footage dated 22.07.2023 and 23.07.2023 in FIR NO. 24 dated 23.07.2023 under sections 21-c, 23, 27-A, 29 of NDPS Act, 1985 and section 25 of Arms Act, 1959 registered at Police Station SSOC Fazilka.

2. The counsel for the petitioner succinctly contends that an FIR No. 24 dated 23.07.2023 under sections 21-c, 23, 27-A, 29 of NDPS Act, 1985 and section 25 of Arms Act, 1959 was registered at Police Station SSOC Fazilka against the petitioner who has been indeed falsely implicated in the present case as he was forcibly picked up from his house on 22.07.2023 by the Police officials and kept in Police Station of SSOC



3. He further contends that the petitioner filed an application before the CJM, Fazilka with a prayer to preserve the CCTV footage of P.S. SSOC, Fazilka from 22.07.2023 to 25.07.2023 on the ground that he was brought to the police station on the night of 22.07.2023 before the registration of FIR which was dismissed vide order dated 02.08.2023 and thereafter, the petitioner challenged the order before the Judge, Special court, Fazilka by filing a revision petition which was partly allowed with a direction to SHO to preserve the CCTV footage dated 22.07.2023 and 23.07.2023 and to produce the same to the court in sealed cover vide order dated 19.08.2023(Annexure P-2).

4. Counsel for the petitioner vehemently contends that few days after passing of the order(Annexure P-2), SHO of police station SSOC, Fazilka filed an application to recall the order passed by the revisional court on 19.08.2023 which was allowed vide order dated 18.10.2023 wherein under the garb of amendment, the directions given to the SHO to preserve the CCTV footage were withdrawn in an illegal and arbitrary manner without giving any cogent reason.

5. Counsel for the petitioner strenuously argues while relying upon ***Paramvir Singh Saini vs Baljit Singh(2021) 1 SCC 184*** wherein it has been held that CCTV cameras must be installed with a storage of 18 months to one year.

6. On the other hand, learned state counsel contends that the accused was arrested on the information given by a very close family member of the petitioner therefore to keep his identity secret, production of CCTV footage in the lower court should be exempted. He further contends that working of Police Station SSOC, Fazilka is different from other police



and placing on record of the CCTV footage would reveal the secrecy of the sources who work with the police thereby breaching the security of the police station.

7. Heard learned counsels for the respective parties at length.
8. One of the very basic fundamentals of criminal justice jurisprudence is that a person is assumed to be innocent until he is proven guilty. But in most of the cases it has been observed that as soon as a police officer gets hold of an individual on the basis of FIR or complaint, inhumane harassment is inflicted on the person till the date of the judgment. Most of the time it is seen that individuals who are not proven to be guilty at the end and get acquitted after having suffered unnecessary harassment. Even though they become free to go back to their normal lives, the mental and physical harm they suffered while being in custody, keeps them haunting forever throughout their lives.
9. In pursuance to reform the police stations, certain guidelines were laid down in ***D.K.Basu V. State of West Bengal AIR 1977 SC 610*** regarding upgrading police stations and prisons with CCTV cameras to check the abuse of human rights.
10. This aspect has been discussed further in ***Paramvir Singh Saini vs Baljit Singh(2021) 1 SCC 184*** which can be understood after perusal of the relevant paras reproduced herein below:-

“5. This court, vide order dated 16.07.2020, issued notice in the instant Special Leave Petition to the Ministry of Home Affairs on the question of audio-video recordings of Section 161 Cr.P.C. statements as is provided by Section 161(3) proviso, as well as the larger question as to installation of CCTV cameras in police stations generally. While issuing notice, this court also took note of the directions in Shafhi Mohammad(supra).



8. *The majority of the compliance Affidavits and Action Taken Reports fail to disclose the exact position of CCTV cameras qua each Police Station. The affidavits are bereft of details with respect to the total number of Police Stations functioning in the respective State and Union Territory; total number of CCTV cameras installed in each and every Police Station; the positioning of the CCTV cameras already installed; working condition of the CCTV cameras; whether the CCTV cameras have a recording facility, if yes, then for how many days/hours, have not been disclosed. Further, the position qua constitution of Oversight Committees in accordance with the order dated 03.04.2018, and/or details with respect to the Oversight Committees already constituted in the respective States and Union Territory have also not been disclosed.*

16. *The State and Union Territory Governments should ensure that CCTV cameras are installed in each and every Police Station functioning in the respective State and/or Union Territory. Further, in order to ensure that no part of Police Station is left uncovered, it is imperative to ensure that CCTV cameras are installed at all entry and exit points; main gate of the police station; all lock ups; all corridors; lobby/the reception area; all verandas/outhouses, Inspector's room; Sub-inspector's room; areas outside the lock up room; station hall; in front of the police station compound; outside(not inside) washrooms/toilets; Duty Officer's room; back part of the police station etc."*

11. To ensure police accountability and to keep a check on human rights abuse by police officials, the Apex court directed that every police station in the country must be equipped with night-vision CCTV cameras, capable of recording both the video and the audio. As per the Court's directions, CCTV cameras will have to be installed at the offices of the Central Bureau of Investigation (CBI), National Investigation Agency (NIA), Enforcement Directorate (ED), Narcotics Control Bureau (NCB),

Department of Revenue Intelligence (DRI), Serious Fraud Investigation Office (SFIO), and any other central agency office which does interrogations, and enjoys the authority to arrest people meaning thereby, the plea taken by the state counsel is unacceptable in the light of the fact that court has specifically directed all the institutions without any exceptions to install CCTV cameras who has authority to arrest people.

12. The State cannot be permitted to bypass the guaranteed fundamental rights under Article 21 of the Constitution of India by preferring to selectively misread and give restricted interpretation to the generic expression used by the Hon’ble Supreme Court while dealing with the constitutional matter and rights granted under Article 21 of the Constitution of India. It is rather a sure shot solution to quash false and trumped-up charges, malicious prosecution and is a veritable safeguard against a government who doesn’t shudder to use the might of the State to implicate the innocent.

13. In view of the discussion stated hereinabove, this court allows the present petition by setting aside the order dated 18.10.2023(Annexure P-3) passed by Additional Sessions Judge, Fazilka and further directs the SSOC Police station, Fazilka to preserve the CCTV footage dated 22.07.2023 and 23.07.2023 in FIR NO. 24 dated 23.07.2023 under sections 21-c, 23, 27-A, 29 of NDPS Act, 1985 and section 25 of Arms Act, 1959 registered at Police Station SSOC Fazilka.

14. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

05.02.2024
Anuradha/Poonam Negi