

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

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CWP-3363-2024 (O&M).
Date of Decision: 19.03.2024.

YATISH KUMAR GOEL

... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

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

Present: Mr. Keshav Pratap Singh, Advocate, and
Mr. Vishal Singh, Advocate, for the petitioner.

Mr. Vivek Saini, Addl. A.G. Haryana,
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present writ petition is for seeking directions to the respondents to provide security to the petitioner against threats extended by private respondents No.5 to 10.

2 Learned counsel for the petitioner has vehemently argued that the petitioner is a practicing Advocate at Delhi High Court and at District Courts, Gurugram. He has approached this Court aggrieved of being attacked by the private respondents in the premises of the Gurugram Courts Complex armed with lathis and barbed wires, sharp blades etc. It is further submitted that FIR No.07 dated 03.01.2024 has already been registered with respect to the incident in question. He contends that the petitioner had been

engaged by one Suresh Yadav for rendering legal services and to file a criminal complaint on his behalf pertaining to bungling of more than Rs.100 crores and usurping the property belonging to a Trust. In the said scam, various officials of the Municipal Corporation, Gurugram, are also involved. A shell Company under the name and style of Ms. Girikunja Land Promoters LLP, was floated by a senior official in the Municipal Corporation, Gurugram which had grabbed land worth Rs.100 crores belonging to a public trust i.e. Brooke Hospital for Animals at a meager amount of Rs.6.5 crores. It was contended that the sale transaction pertaining to land of the public trust could not have been done without obtaining permission from Court. Consequently, a complaint bearing COMI No.507 of 2021 was instituted by the petitioner. Bailable warrants for securing presence of the respondents was issued by the JMIC, Gurugram vide order dated 14.09.2023.

3 Further, the officials of the Income Tax Department as well as the Enforcement Directorate had also been summoned in the criminal complaint No.693 of 2022. An application was also by the petitioner before the Sub Divisional Magistrate, Bhondsi, for restraining further alienation of land. Respondent No.8, who was cultivating the land is stated to have approached the petitioner and informed him that Vijay Yadav (respondent No.5) wanted to dispossess him illegally from the said land by misusing his power. Eventually, Vijay Yadav – respondent No.5 along with Suresh Yadav- respondent No.8, colluded and made Benami transactions in favour of one Samiksha Devi wife of Suresh Yadav. The petitioner was not aware of the said transfer and the cases filed by the petitioner on behalf of Suresh

Yadav (respondent No.8) continued to be defended by the petitioner in the Court. Reminders were thereafter sent by the petitioner to the Income Tax Department and Enforcement Directorate with respect to the previous complaints sent by him for taking action. The same infuriated and offended Vijay Yadav, respondent No.5 and he along with Suresh Yadav, respondent No.8 are alleged to have hatched a criminal conspiracy to teach a lesson to the petitioner. Respondent No.8 hence called the petitioner on 02.01.2024 in the parking of the Gurugram District Courts and they openly attacked the petitioner. Allegations have also been leveled against various other persons who participated in the said attack and threatened to eliminate the petitioner. An information was also sent to the police, however, initially they were reluctant to register the FIR. However, eventually a criminal case was registered vide FIR No. 07 dated 03.01.2024 at Police Station Shivaji Nagar, Gurugram for offences under Sections 323, 34 and 506 of the Indian Penal Code which were only the minor offences and the grievous offences have been left. It is alleged that it was a broad day light attack upon the petitioner by the private respondents showing no restraint or fear.

4 Apprehending threat to his life, the petitioner approached this Court. At the same time, he had also filed an application before the Illaqa Magistrate under Section 156 (3) Cr.P.C. for seeking intervention of the Illaqa Magistrate for a fair investigation and for seeking directions for invocation of Sections 307, 120-B and 201 of the Indian Penal Code, as well as under Section 20 of the Arms Act. The said application is currently stated to be pending. A direction was also issued by the Judicial Magistrate First Class, Gurugram, to preserve the CCTV footage and the CDRs

pertaining to the incident which was the evidence in relation to the same. Reference is also made to certain provisions of the Advocates (Amendment) Bill, 2023, which talks of police protection and for securing the advocates.

5 A status report by way of an affidavit of Mukesh Kumar, HPS, Assistant Commissioner of Police, City Gurugram, on behalf of respondent No.1 was filed on 04.03.2024. It has been stated in the status report that an FIR No. 05 dated 02.01.2024 was registered under Sections 323 and 506/34 IPC registered at Police Station Shivaji Nagar, Gurugram on the complaint filed by Vipin Yadav alleging that he is a practising Advocate in Gurugram Courts and working as junior with Yatish Goel, Advocate, and he had provided some cases to Yatish Goel, Advocate through his uncle namely Suresh Kumar Yadav. Full fee of these cases had been paid to the petitioner, however, he was blackmailing his associate 'Vipin' as well as his uncle. A complaint in this regard had been submitted by his uncle at Police Station Badshahpur against the petitioner herein and a notice whereof had been given by the investigating officer. On 02.01.2024, when the complainant reached the Court at 10:00 A.M., the petitioner started hurling filthy abuses at him and his family to which he expressed his opposition. Yatish Goel is alleged to have started giving beatings to Vipin Yadav with the aid of his brother and driver. Certain injuries are stated to have been caused to Vipin Yadav- the associate of the petitioner Yatish Goel. Later on account of a counter complaint submitted by the petitioner, FIR No.07 dated 03.01.2024 under Sections 323, 506 and 34 IPC (Sections 325 and 201 IPC added later on) was registered at Police Station Shivaji Nagar, Gurugram, after receiving a police ruqa in MLC No.12521 dated 02.01.2024 pertaining to

the petitioner Yatish Goel. The complainant i.e. petitioner herein alleged in his cross-version that Vipin Yadav and Rohit Yadav caused injuries to him with a wired danda and that Suresh Yadav pointed a licensed revolver upon him. He had attributed various injuries to the said assailants. It is further averred that the CCTV footage of the hospital has also been secured and that the doctors opined the injury to be grievous on 10.02.2024 whereupon Section 325 and 201 IPC have already been added. The investigation in the case is continuing and that during the course of investigation Vijay Yadav, Kuldeep Yadav and Naresh Yadav were found to be innocent. It is also recorded that as the version and cross-version have already been registered and are being investigated into, the true genesis of the occurrence is yet to be determined and that there is no element of any threat or apprehension for which any security is to be provided to the petitioner.

6 A copy of the said status report was furnished to the counsel for the petitioner for going through the same and for filing the response, however, no response has been filed thereto.

7 No other argument has been raised.

8 I have heard learned counsel appearing for the respective parties and have also gone through the documents available on record.

9 Apparently, it is a case of version and cross-version with respect to an incident that had taken place on 02.01.2024. The matter is being investigated into by the police and due process of law is being followed. The petitioner has already taken recourse to the alternative remedy of approaching the Illaqua Magistrate in relation to his subsisting grievance.

10 So far as the aspect of providing police protection is concerned, the same is based on various aspects and inputs including the possibility of a real threat. An occurrence of a violent incident cannot *ipso facto* satisfy the necessity of providing police protection to the petitioner as is being asked for. The authorities are required to make an assessment of the threat and it is only when the threat is real, tangible and based on cogent input, that an appropriate direction for providing security is to be issued to the respondents. No such circumstances, however, figure in the present case. Both the parties have lodged complaints against each other and they are under investigation. Both the parties are Advocates and the present petition has been filed only on the basis of a misplaced apprehension and without any cogent material on record for justifying direction to provide security.

11 The security at public cost is not to be ordered on a mere asking of any party on perceived apprehension and valid, tangible and cogent circumstances satisfying the conscience of the Court must exist giving rise to a reasonable apprehension of imminent threat to the life and liberty of an individual. The incident of a fight inter se parties and the increased apprehension in the mind of the petitioner does not satisfy the said requirement.

12 The present writ petition is accordingly dismissed.

March 19, 2024.
raj arora

(VINOD S. BHARDWAJ
JUDGE

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