

265 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-31312-2023
RESERVED ON: 01.08.2024
PRONOUNCED ON: 29.10.2024

BALDEV SINGH

PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Kamal Gupta, Advocate
for the petitioner.

Mr. J.S. Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking directions to official respondents to conduct afresh investigation/re-investigation in FIR No. 0007, dated 15.01.2023, under Sections 302, 341, 323, 148, 149 “Sections 193 & 194 added later on” IPC, registered at Police Station Arniwala, District Fazilka (Annexure P-4) in a fair and impartial manner through an independent agency or by constitution a SIT of higher officials with further prayer to locate the remaining culprits, who are still at large.

2. The brief facts of the present case is that the afore-said FIR stands registered on the basis of statement of Baldev Singh son of Balwant

Singh alleging that there is a dispute with Shinderpal Singh son of Jang Singh and others due to a water course since 2022. They filed a case in the irrigation department and the same was pending for 17.01.2023. On 15.01.2023 at about 02:00 PM, complainant Baldev Singh along with his uncle Balvir Singh son of Hardit Singh was going on a cycle towards their fields to make a round, when they turned from the metalled road towards their fields situated on the metalled road, then Shinderpal Singh alias Shindi son of Jang Singh armed with axe, Kuldeep Singh son of Gurcharan Singh armed with kappa, Bant Singh son of Gurcharan Singh armed with axe, Harbans Singh son of Amar Singh armed with iron rod and Pritam Kaur wife of Jang Singh armed with iron rod were standing there and they intercepted complainant Baldev Singh and his uncle Balvir Singh. Then the accused party hurled lalkara by saying that today teach them a lesson that how to file a case in the Canal Department, By hurling the lalkara, Shinderpal Singh gave an axe blow on the forehead of uncle Balvir Singh. Accused Kuldeep Singh gave a blow of reverse side of kappa, on the head of complainant Baldev Singh now petitioner. Bant Singh gave an axe blow with its reverse side on the head of uncle Balvir Singh. Then Harbans Singh gave an iron rod blow on the left thigh of Baldev Singh. Then Pritam Kaur gave an iron rod blow on the head of Balvir Singh, resultantly Balvir Singh fell down. Then Baldev Singh raised alarm loudly which attracted his nephew Pritpal Singh son of Jaipal Singh and Shinderpal Singh son of Jaipal Singh to the spot. They started disengaging Baldev Singh and Balvir Singh, then in the meantime Jang Singh son of Amar Singh armed with iron rod, Gurjeet Kaur wife of Bant Singh, armed with handle of spade,

Paramjit Singh son of Piara Singh armed with stick, Piara Singh son of Jai Singh armed with handle of spade, Surinder Singh alias Seeti son of Mohinder Singh armed with danda, all residents of Dhani Chirag and two unknown persons armed with dandas who were already present in the Dhani came towards complainant party. Jang Singh gave an iron rod blow upon Pritpal Singh and the said blow hit on his right wrist. Gurjeet Kaur gave a blow of handle of spade on the right elbow of Pritpal Singh. Then Pramjit Singh gave a dang blow on the middle of the head of Shinderpal Singh. Piara Singh gave a blow of handle of spade on the left shoulder of Pritpal Singh, Pritpal Singh and Shinderpal Singh fell down. Then Satnam Singh gave a dang blow on the left eye of Pripal Singh and Pripal simate Decame unconsins, the side Sin dist in an a the left forearm of Shinderpal Singh. Complainant Baldev Singh also fell down. Then Mangat Singh and all the above said accused persons inflicted injuries to Baldev Singh and Balvir Singh. On hearing the noise, many persons gathered there. On seeing the people started gathering there, the above said persons fled away from the spot along with their respective weapons. On the way to the hospital, Balvir Singh died on the bridge of the Canal in the area of village Islamewala and on their arrival in Civil Hospital, Fazilka, Balvir Singh was declared brought dead by the doctor. The injured were brought to Civil Hospital, Fazilka by Gurwinder Singh son of Jasvir Singh. The statement of complainant Baldev Singh was also endorsed by Shinderpal Singh son of Jaipal Singh.

3. It has been argued by learned counsel for the petitioner that the report prepared by the Investigating Agency is marred by serious

defects and allegedly presents fabricated facts to shield certain accused individuals from facing murder charges. It is pertinent to note that despite confessional statements and recovery of weapons used in the altercation, the investigating agency cleared accused No.5 and 7, citing lack of incriminating evidence. The assertion is that exoneration of accused No.5 by the police, based on CCTV footage is questionable due to absence of 65-B certificate, which is required for electronic evidence. Further more, accused No.5 confessed to hiding and recovering the iron rod used in the assault. This admission contradicts her defense, indicating culpability. It is submitted on behalf of the petitioner that the investigating agency has exonerated accused No.5 without following due process and presented incomplete challan against only one accused whereas, 12 accused have been nominated in the FIR. Moreover, the agency has moved application for the discharge of two accused i.e. accused No.5 and 7, despite effecting recovery of weapons from them. The investigation report/challan unquestionably reveal the carelessness and laxity of the police officials.

4. Learned State counsel has contended that inquiry has already been conducted by Superintendent of Police (Headquarter), Fazilka, and Gurjeet Kaur, Pritam Kaur, Paramjit Singh, Piara Singh, Surinder Singh @ Seeti, Satnam Singh @ Kali, mangat Singh @ Mangi were found innocent vide report dated 18.03.2023, which was subsequently approved by Senior Superintendent of Police, Fazilka on 11.04.2023. It is further contended that the court though under its inherent powers has all the rights to intervene or question the working of the investigating agency but this power should be used sparingly in cases where it is apparent that non

interference of the court would cause grave harassment or injustice. In the instant case, since nothing incriminating or illegality caused by the investigating agency has come on record therefore it should be free to proceed in its own way without any unnecessary interference of the court.

5. Heard learned counsels for the respective parties at length.

6. When an aggrieved person approaches the court in a petition under Section 482 Cr.P.C., then the court is possessed with enormous powers to do justice or remove injustice. The Court's vast powers are meant to prevent any abuse of the process or to secure the ends of justice. These powers must be exercised for the advancement of justice. Ends of justice are always higher than the ends of mere law and for accomplishing that noble goal the courts have rightly been invested with adequate powers. While saying so at the same time it has to be kept in mind that though the powers possessed by the High Court are extremely wide but the very plentitude of the power requires the court to function with greater caution and circumspection in the exercise of those powers.

7. In other words, the power under Section 482 Cr.P.C., is to be exercised, *ex debito justitiae*, ie to do real and substantial justice While exercising powers under Section 482, High Court cannot interfere with the manner of investigation of a case or direct the investigating agency to investigate from a particular angle or to arrest the accused. The same was observed by the Apex Court in ***"M.C. Abraham and Another vs State of Maharashtra and Others"* (2003) 2 SCC 649**, wherein it has further gone to the extent of saying that investigating agency is the master of investigation and is at liberty to proceed in its desired direction being free

from any interference.

8. Further the Apex Court in ***“P. Chidambaram v Directorate of Enforcement” 2019 (4) R.C.R. (Criminal) 875*** observed as under:

“63. Investigation into crimes is the prerogative of the police and excepting in rare cases, the judiciary should keep out all the areas of investigation. In “State of Bihar and another v. P.P. Sharma, IAS” and another 1992 Supp. (1) 222, it was held that “The investigating officer is an arm of the law and plays a pivotal role in the dispensation of criminal justice and maintenance of law and order.Enough power is therefore given to the police officer in the area of investigating process and granting them the court latitude to exercise its discretionary power to make a successful investigation...”. In “ Dukhishyam Benupani, Asstt. Director, Enforcement Directorate (FERA) v. Arun Kumar Bajoria” (1998) 1 SCC 52, this Court held that “.....it is not the function of the court to monitor investigation processes so long as such investigation does not transgress any provision of law. It must be left to the investigating agency to decide the venue, the timings and the questions and the manner of putting such questions to persons involved in such offences. A blanket order fully insulating a person from arrest would make his interrogation a mere ritual.”

64. As held by the Supreme Court in a catena of judgments that there is a well-defined and demarcated function in the field of investigation and its subsequent adjudication. It is not the function of the court to monitor the investigation process so long as the investigation does not violate any provision of law. It must be left to the discretion of the investigating agency to decide the course of investigation. If the court is to interfere in each and every stage of the investigation and the interrogation of the accused, it would affect the normal course of investigation. It must be left to the investigating agency to

proceed in its own manner in interrogation of the accused, nature of questions put to him and the manner of interrogation of the accused.

65. It is one thing to say that if the power of investigation has been exercised by an investigating officer mala fide or non-compliance of the provisions of the Criminal Procedure Code in the conduct of the investigation, it is open to the court to quash the proceedings where there is a clear case of abuse of power. It is a different matter that the High Court in exercise of its inherent power under Section 482 Cr.P.C., the court can always issue appropriate direction at the instance of an aggrieved person if the High Court is convinced that the power of investigation has been exercised by the investigating officer mala fide and not in accordance with the provisions of the Criminal Procedure Code. However, as pointed out earlier that power is to be exercised in rare cases where there is a clear abuse of power and non-compliance of the provisions falling under Chapter XII of the Code of Criminal Procedure requiring the interference of the High Court. In the initial stages of investigation where the court is considering the question of grant of regular bail or pre-arrest bail, it is not for the court to enter into the demarcated function of the investigation and collection of evidence/materials for establishing the offence and interrogation of the accused and the witnesses.”

9. The Court should be extremely cautious and slow to interfere with the investigation of criminal cases and should rather keep its hands off and allow the investigating agency to complete the investigation without any fetter. Further, unless case of gross abuse of power is made out against those in charge of investigation, the court should be loath to interfere at any stage of investigation.

10. Considering the facts and above stated discussion, this court is

of the considered opinion that the court while exercising its inherent powers should not unnecessarily intervene in the working of the investigating agency only to hush up the process. Meaning thereby, it is not open to this Court to exercise its inherent powers and extra ordinary jurisdiction under Section 482 Cr.P.C., to unsettle the investigating agency at this stage by no stretch of imagination.

11. In view of discussions made hereinabove, the present petition being devoid of any merit, is dismissed.

(SANDEEP MOUDGIL)
JUDGE

29.10.2024
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- 1. Whether speaking/ reasoned : Yes / No
- 2. Whether reportable : Yes / No