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IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

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CWP-19218-2021 (O&M).
Date of Decision: 20.08.2024.

MANISH JINDAL AND ANOTHER

... Petitioners

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Rohit Singla, Advocate, for the petitioners.
Ms. Akshita Chauhan, DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition was to the alleged incident of illegal arrest and detention of petitioner No.1 and prayer was made that the same be got inquired into by a Gazette Officer not below the rank of Superintendent of Police.

2 Learned counsel appearing for the petitioners contends that the petitioner No.2 is an old widow of 51 years and has one son. The son of petitioner No.2 namely Manish Jindal, is running a Photostat shop outside his residence. There is a property dispute between the petitioner No.2 and her brother in law pending before the District Courts, Bathinda. On

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27.02.2021, Mansih Jindal-petitioner No.1 was assaulted by Vinod Kumar and his son Manoj Kumar with an iron rod in full public glare. The MLR was conducted but no FIR was registered. He contends that the petitioner made complaints to the police officials but they failed to take appropriate steps to protect the life and liberty of the petitioners. He contends that on 31.05.2021, Janki Rani mother of accused Vijay Kumar submitted a complaint to the SHO, Police Station, Civil Hospital, Bathinda alleging that the petitioner No.2 and her son Manish Jindal-petitioner No.1 damaged the water pipe and wire of their motor and thus the water supply to their house was stopped. The petitioner No.1 was called to the Police Station in the evening and was arrested under Sections 107 and 151 of the Code of Criminal Procedure by lodging GD No.45 dated 31.05.2021. It is submitted that as no cognizable offence was made out, hence, the petitioner No.1 could not have been taken in custody and that such custody was in violation of the guidelines issued during the period of Covid -19 Pandemic.

3 Learned State counsel, on the other hand, by referring to the reply filed by the respondents on 12.03.2021 has submitted that the respondent authorities have acted in accordance with law and therefore, the present writ petition deserves to be dismissed. The relevant extract of the reply reads thus:-

“2. That in pursuance of directions dated 17.10.2023, the answering deponent has looked into the matter and also thoroughly examined the case file and it has transpired that the petitioners' had some property dispute with Janak Rani and Vinod Kumar. Pertinently Janak Rani is grandmother of

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Petitioner No.1 and Mother in Law of Petitioner No.2, similarly Vinod Kumr is Uncle (Taya) of Petitioner No.1 and Brother in Law (Jeth) of Petitioner No.2. On 27.02.2021 dispute had taken place between aforesaid parties, Munish Jindal (Petitioner No.1); Geeta Rani (petitioner No.2) and Janak Rani and her son Vinod Kumar. The Petitioner No.1 and Janak Rani were admitted in civil Hospital, Bathinda due to their respective injuries. As per MLR No. AK/CHB/32/2021 of the petitioner No.1, he had suffered three injuries on his person, similarly, as per MLR No. AK/CHB/33/2021 of Janak Rani, she had suffered four injuries. On receiving information the police party visited the spot and recorded the statement of Petitioner No.1 while he was admitted in the Civil Hospital, Bathinda and on the basis of his statement, a Rapat No.21 dated 27.02.2021 u/s 323,34 IPC was entered and similarly the statement of Janak Rani was recorded when she was admitted in Civil Hospital Bathinda and on the basis of statement, a Rapat No.22 dated 27.02.2021 u/s 323,34 IPC was entered by the police. It is further submitted that as per opinion of Doctor dated 13.04.2021, all injuries of petitioner No.1 and Janak Rani were of "Simple in Nature." On 31.05.2021, once again dispute had erupted between parties, as the petitioner No.1 broke the water supply pipe and disconnected the electricity connection of Janak Rani's house. Therefore Janak Rani made a complaint to the police in this regard. Keeping in view to maintain the peace and public tranquility appropriate action was taken, invoking the provision of 107/151 Cr.P.C., against the petitioner No.1 and with due diligence the Rapat No.45 dated 31.05.2021 was entered by the police and the arrest of the petitioner No.1 was made and was presented before Ld. Sub-Divisional Magistrate Bathinda along with Kalandra,

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Similarly a Rapat No.21 dated 21.06.2021 was entered taking action against Janak Rani and her son Vinod Kumar under the provision of 107/151 Cr.P.C, as both parties were engaged, continuously, in the verbal fighting and after arrest of Vinok Kumar & Janak Rani, they were produced before Sub-Divisional Magistrate, Bathinda along with Kalandra.

3. Needless to say that the petitioner has made representations to various higher authorities and the same were thoroughly and keenly inquired and the detailed reports were duly submitted to the concerned authorities stating that in order to maintain peace and tranquility the police had taken appropriate action under the statutory provision of 107/151 Cr.P.C., interalia, against both the parties.”

4 I have heard learned counsel appearing for the respective parties and have also gone through the documents appended along with the present petition with their able assistance.

5 It is also evident that so far as the MLR of petitioner No.1 is concerned, as per the opinion of the doctor, the injuries were simple in nature, hence, it was a case of nature of injuries falling under Section 323 of the Indian Penal Code which is not a cognizable offence and there was no occasion or reason for registration of the FIR against the accused named thereunder. The remedy was by way of filing of a complaint by the person aggrieved. Hence, it cannot be held that the police ought to have registered the FIR on the basis of simple injuries sustained by the petitioner or that any prejudice was caused to the petitioner or that the matter was not being inquired into correctly. It is also evident that there was a property dispute

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between the petitioners and the accused persons and the proceedings under Sections 107/151 of the Code of Criminal Procedure, have been initiated in which both the parties were produced before the Sub Divisional Magistrate for causing breach of peace and they were ordered to be released on furnishing bail bonds. Such an act by the respondent authorities cannot be said to be an act sans the authority of law. It is also not the case of the petitioners that they were not produced before the Executive Magistrate immediately.

6 Under the given circumstances, it cannot be said that the arrest and detention of petitioner No.1 for being produced before the Executive Magistrate and till the time that they were released on their furnishing bail was illegal.

7 The present writ petition is disposed of at this stage as no further directions are required to be issued. The petitioners, if so advised, may take appropriate steps against the accused persons who had allegedly caused injuries to them.

August 20, 2024
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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