

2024-PHHC-098771



222 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-40118-2021 (O&M)

Date of Decision: 02.08.2024

RAJBIR KAUR @ RAJI AND ANOTHER

...Petitioners

V/S

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ritesh Pandey, Advocate
for the petitioners.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. The instant petition has been filed under Section 482 Cr.P.C. seeking issuance of directions to respondents No. 1 and 2 to transfer the investigation of the case stemming from FIR No. 55 dated 16.04.2021 registered under Sections 354, 342, 506 and 323 of Indian Penal Code, 1860 and Section 3 of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 at Police Station Sadar Batala.

2. Learned counsel for the petitioners *inter alia* contends that the FIR(supra) was registered on 16.04.2021 and one of the accused is a serving police official in District Batala. He further submits that the said accused, by the virtue of his position, is influencing the investigation. Instead of performing its duty, the jurisdictional police authority is pressurizing the petitioner to effect compromise with respondent No. 5. The investigating agency has clearly failed to perform its statutory duty by conducting a biased investigation. The investigating agency has filed a cancellation report which was not accepted by

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the concerned Court and on 06.09.2022, the matter was directed to be investigated further. However, even after a lapse of over two years, the investigating agency has made no progress whatsoever.

3. Learned State counsel could not controvert the aforementioned factual position with regard to the fact that respondent No. 5 is serving as Sub-Inspector with the Punjab Police in Batala.

4. Having heard the learned for the parties and after perusing the record, it is evident that respondent No.5-accused is in the police force, stationed in Batala. It is settled law that where a constitutional Court is satisfied that accusation is against a person who by virtue of his office could influence the ongoing investigation and cause prejudice to the complainant or the victim, it can invoke its power to transfer the investigation to a different agency, especially when it becomes necessary to provide credibility and instill confidence in the investigation or where such order may be necessary for doing complete justice and enforcing the fundamental rights.

5. A reference in this regard can be made to *Rashmi Behl vs. State of Uttar Pradesh and others*, 2015(2) RCR(Criminal) 45, *State of Punjab vs. Davinder Pal Singh Bhullar and others*, 2012(1) RCR(Criminal) 126, *State of Punjab vs. Central Bureau of Investigation and others*, 2011(9) SCC 182, *State of U.P. and others vs. State of UP*, 1994 AIR (Supreme Court) 38 and *Kashmeri Devi and Delhi Administration*, 1988(2) RCR(Criminal) 44.

6. However diligently and fairly might the officers of Punjab Police at District Batala carry out the investigation, the same is bound to lack credibility since the allegations are levelled against an official of the same police force.

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7. In view of the facts and circumstances of the case and in the interest of justice, the investigation of the FIR(supra) is transferred to District Amritsar. The Commissioner of Police, Amritsar is directed to entrust the case to a senior police officer, preferably to an IPS Officer, to rule out any apprehension of the petitioner.
8. The concerned investigating agency is directed to file the final report under Section 173 Cr.P.C. within a period of 03 months from the date of receipt of certified copy of this order, strictly in accordance with law.

02.08.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No