

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CWP-19152-2020
Date of decision: 29.07.2024

KAMALJIT KAUR ..Petitioner

Versus

STATE OF PUNJAB AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Salil Sabhlok, Sr. DAG, Punjab.

Ms. Sidhi Bansal, Advocate
for Mr. R. Kartikeya, Advocate
for respondent No.2.

Mr. Aditya Dassaur, Advocate
for respondent No.4.

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SHEEL NAGU, C.J. (Oral)

1. This petition has been filed under Article 226/227 of the
Constitution of India praying for the following reliefs:-

“(b) Issue a writ in the nature of certiorari for quashing the proceedings before the respondent no.2 Punjab State Human Rights Commission in Complaint no. 6059/14/2020 (Annexure P-3) and the order dated 28.10.2020 (Annexure P-4) passed by the Punjab State Human Rights Commission in the said complaint, the said order being totally without any authority or jurisdiction, arbitrary, interference in administration of criminal justice and being in violation of provisions of law.

(c) Pass an order or direction staying the further proceedings before the respondent no.2 Punjab State Human Rights Commission and the operation of the



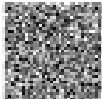
impugned order (Annexure P-4) alongwith all the consequent proceedings during the pendency of the present petition.

(d) Issue any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.”

2. The prayer in this petition is for staying the operation of Annexure P-4, which is a direction passed by the Punjab State Human Rights Commission, Chandigarh, pursuant to complaint No.6059/14/2020, whereby, directing the Police to lodge an FIR for offences punishable under Section 420, 465, 467, 468, 471, 406, 409 and 120-B of the Indian Penal Code, 1860, against Raj Kamal Singh Atwal (son of the petitioner herein).

3. There are several grounds to challenge the aforesaid order of the Punjab State Human Rights Commission, Chandigarh and as well as the consequential FIR registered vide Annexure P-5 dated 31.10.2020, but the sole ground on which this petition can be allowed is that the Human Rights Commission has no authority of law owing to a bar contained in Section 36(2) of the Protection of Human Rights Act, 1993 (in short ‘1993 Act’) that prohibits the Commission to inquire into any matter after expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

4. Learned counsel for the respondents does not dispute that the alleged act constituting violation of human rights took place some time in the year 2016 or at best 2017, but not thereafter. The complaint itself was lodged in the year 2020 and the Human Rights Commission thereafter took cognizance of the said complaint and directed vide impugned order for lodging of FIR as late as on 28.10.2020, without any authority of law.



5. For the aforesaid grounds, the order impugned herein and the consequential FIR are violative of the provisions enshrined in the ‘1993 Act’. The bar prohibiting the Commission from inquiring into any complaint after one year of the date on which the act constituting violation of the 1993 Act, is alleged, as stated under Section 36(2) of 1993 Act, is being reproduced below for the ready reference:-

“36. Matters not subject to jurisdiction of the Commission.-
(1)
(2) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.”

6. Learned counsel for the respondents does not dispute the aforesaid legal position.

7. In view of the above, the present petition stands allowed in the following term:-

i. By way of a writ of certiorari, the impugned order Annexure P-4 and the consequential FIR (Annexure P-5) stand quashed.

8. All the pending miscellaneous applications, if any, are also disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

July 29, 2024
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>