



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**CWP-21837-2021 (O&M)
Date of decision: 14.10.2024**

Shrey Gupta

...Petitioner

VERSUS

The State of Haryana and others

...Respondents

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

Present :- Mr. Shivam Sharma, Advocate for
Mr. Gagan Oberoi, Advocate for the petitioner.

Mr. Pankaj Mulwani, DAG Haryana and
SI Jagdish Kumar (No. 281/A), P.S. Sector-14, Panchkula.

VINOD S. BHARDWAJ, J. (Oral)

1. The petitioner has approached this Court for seeking directions to the respondents to conduct a fair investigation in case bearing FIR No. 49 dated 19.02.2021 registered under Sections 408 and 420 of Indian Penal Code, 1860 at Police Station Sector-14, Panchkula that too by an officer not below the rank of an IPS.

2. Learned counsel for the petitioner contends that the petitioner was working as an employee at Electrical and Fancy Light Shop, Sector-12A, Panchkula and had preferred a complaint before various departments for the misuse of his identity and for hijacking of his accounts and debit card(s). He had also instituted a civil suit before the Civil Judge (Sr. Division), Panchkula, wherein the official respondents submitted that in the event of submission of an affidavit by the petitioner, appropriate action shall be taken as per law. As a result of the statement, the civil suit No.87 of 2021



was withdrawn against the officials of the department while the same is still pending against the others. It is alleged that respondent No.6 thereafter hatched a conspiracy against the petitioner and cooked up a false story whereupon the police personnel started calling the petitioner and threatened him to withdraw the complaint. The petitioner thus approached this Court by filing CRM-M-6488-2021, titled as 'Shrey Gupta Vs. State of Haryana and others' for directing the official respondents not to harass him, at the behest of respondent No.6 or to pressurize him for withdrawal of the complaints moved by him against respondent No.6. It is averred that instead of completing the investigation in the complaints filed by the petitioner against respondent No.6, an FIR No.49 dated 19.02.2021 was instead registered at City Police Station, Sector-14, Panchkula against the petitioner at the instance of respondent No.6. Nonetheless, apprehending a false implication, a CRM-M-10600-2021 was also filed by the petitioner before this Court wherein interim bail has been granted to him. He has contended that the petitioner has joined investigation as and when he was required to do so and that despite the same, the Police officials are harassing him. He alleged an apprehension about a motivated investigation being conducted by the Police thus compelling him to approach this Court.

3. Written statement on behalf of respondents No.1 to 5 had been filed by Mr. Mukesh Kumar, HPS, Assistant Commissioner of Police, Kalka wherein it was averred that a complaint had been received by the Police from respondent No.6-Ujjwal Goel to the effect that he is involved in the work of electrical fancy lighting in Sector-12A, Panchkula and that the petitioner was working with him for bank and sales services etc. Cheque



Book and other documents used to remain in his possession. There was initially no suspicion against the work and conduct of the petitioner, however, on 16.12.2020, a message was received by the complainant on his mobile number 98888-17147 regarding transaction of Rs.25,000/- from his account No.259888817147 at Indusind Bank, Sector-11, Panchkula by using cheque No.000014 dated 16.12.2020 after affixing his fake signatures. A similar information was also received from another account in Andhra Bank, Sector-14, Panchkula when Rs.52,500/- had been transferred through cheque No.0000100 in the account of one Saurabh Malhotra who is brother-in-law (*Jija*) of the petitioner. Similar transactions for different denominations through various cheque numbers had been carried out. When the matter was enquired further, the bank officials informed that the petitioner was getting information for the bank accounts and that a total sum of Rs.6,50,000/- through cheques had been withdrawn by the petitioner in connivance with other co-accused. It was informed that during the course of investigation, the statements of various witnesses were recorded and raids were also conducted. The petitioner joined the investigation in April-2021, August-2021 as well as October-2021 but he is stated to have not cooperated in the investigation and that the remaining cheques are in possession of the petitioner and money withdrawn/transferred by him is also to be recovered. The investigation was hence under progress at the time when the said written statement had been filed on behalf of the official respondents on 26.11.2021.

4. Since a period of nearly 03 years had elapsed and taking into consideration that there was a delay in conclusion of the investigation, a report was sought also with respect to the complaint submitted by the



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petitioner against the officials as well. A subsequent status report, by way of an affidavit of Surender Singh, Assistant Commissioner of Police, Zone-II, Panchkula dated 05.02.2024 was thus filed. It has been stated in the said status report that the petitioner had submitted a complaint No.38-APO dated 06.09.2021 and that the said complaint (which is referred to as representation dated 06.09.2021) has been got inquired into from the Assistant Commissioner of Police, Kalka. It is averred that during the inquiry of the said complaint/representation, the inquiry officer recorded the statements of the complainant-petitioner/Shrey Gupta and that of Assistant Sub-Inspector/Narinder Singh, Incharge Police Post Amrawati and it was found that on the complaint of respondent No.6, FIR No.49 dated 19.02.2021 had already been registered against the petitioner and that the investigation of the case was being conducted by the officer against whom the complaint had been submitted. During the course of inquiry, no proof/evidence with support and furtherance of the allegations levelled by the petitioner, against respondent No.5, of taking bribe, was produced. No truth was hence found in the allegations levelled by the petitioner. It was also pointed out that even though an interim bail has been granted, however, the same has not been confirmed so far by this Court. It is stated that in order to take benefit in the FIR registered against him, the petitioner is filing frivolous complaints to pressurize the Investigating Agency. It is submitted that the inquiry in the aforesaid complaint was duly approved by the Deputy Commissioner of Police, Panchkula and the evidence led by the petitioner has been duly examined and the same filed on 13.10.2023. It is averred that the present petition has filed solely to influence and steer the investigation in



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case FIR No.49 dated 19.02.2021.

5. No replication/rejoinder to the said written statement/status report has been filed by the petitioner.

6. I have heard learned counsel for the parties at some length and gone through the record. Counsel have respectively re-iterated the facts noticed above.

7. Counsel for the petitioner was called upon to refer to any evidence which is in his possession and on the basis whereof the inquiry conducted into the complaint against respondent No.5 or investigation into FIR No.49 could be said to be misdirected or would establish that the same ignores crucial evidence. He also could not refer to any reason as to why the Investigating Officer shall not carry out a proper investigation.

8. No ground for directing transfer of investigation and for it to be conducted by any other agency has been pointed out. Further, there is no evidence available on record on the basis whereof it may be *prima facie* held that the Investigating Agency/Investigating Officer is not conducting the investigation in a fair manner. A mere dissatisfaction of the petitioner cannot be perceived as a derogation from the settled principle of investigation. Besides, entertaining any such unsubstantiated allegations in petition shall amount to allow an accused to steer investigation merely by levelling allegations against an Investigating Officer who may not seem to be favouring him. Hence, there is a great potential of misuse of any such undue indulgence. The burden lies on the person seeking transfer of investigation to establish as to how he is prejudiced and as to how the investigation is unfair or partisan.



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9. Further, the complaint submitted by the petitioner against the Investigating Officer has already been inquired into and the allegations have not been substantiated or corroborated in any manner. Despite the status report having been filed in February-2024, no affidavit or evidence has been produced by the petitioner before this Court, on the basis whereof it can be held that the inquiry conducted by respondents and as approved by the Deputy Commissioner of Police, Panchkula was not appropriate or suffers from gross mis-appreciation or disregard to any evidence that had been adduced by him.

10. Under the given circumstances, I do not find any merit insofar as claim made by the petitioner for seeking transfer of investigation to some other agency is concerned. However, taking into consideration that the investigation of the aforesaid case is pending for more than 03 years, it is deemed expedient and necessary that the investigation be completed expeditiously and a final report be filed.

11. Let the aforesaid exercise be completed by the respondent-State within a period of two months of receipt of certified copy of this order.

12. The petition is disposed of accordingly.

(VINOD S. BHARDWAJ)
JUDGE

14.10.2024

Mangal Singh

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