



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-29569-2018

Date of decision: 19.09.2024

HARJINDER SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present: - Mr. H.P.S. Ghuman, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

Mr. Gautam Kumar, Advocate for
Mr. S.S. Gill, Advocate for respondents No.4 and 5.

VINOD S. BHARDWAJ, J. (Oral)

Prayer in the present writ petition is for directing the respondents for payment of compensation of Rs. 5 lacs on having being taken as handcuffed and being humiliated by the respondents, which such act and conduct was in violation of the order dated 24.09.2008 passed in the matter of “*World Human Rights Protection Council versus State of Punjab and others*” reported as 2010 (1) R.C.R Criminal 368.

2. Learned Counsel appearing on behalf of the petitioner contends that Harvinder Kaur, sister of the petitioner is married to one Nazam Singh at Village Hakimpura, Tehsil Nabha, District Patiala. On 07.11.2014, Nazam

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Singh made a complaint to the Police Station Bhadson against Harbhajan Singh son of Bant Singh alongwith 23 more persons who made an attempt to sow wheat crop in his land by the use of tractor and to establish their possession on the land. FIR No. 79 dated 08.11.2014 was registered under Section 447, 506, 34 of the IPC. Harbhajan Singh (the accused in the above said FIR) also got lodged a case bearing FIR No. 78 dated 07.11.2014 registered under Sections 336, 506, 148, 149 and 120-B of the IPC against the petitioner and others. The above said dispute was however compromised on 10.12.2014 with the intervention of respectable and the matter was amicably resolved. An entry bearing DDR No. 15 dated 10.12.2014 was also recorded to the said effect. It is alleged that the then Station House Officer had however taken a sum of Rs. 1,06,000/- from the brother-in-law of the petitioner, to be given to the complainant-Harbhajan Singh (in FIR No. 78 dated 07.11.2014), in lieu of the agriculture implements whereas the said implements were neither provided to the petitioner nor the amount was handed over to Harbhajan Singh.

3. He further argues that on 14.12.2014, a raid was however conducted at the house of Narinder Singh @ Billu for supporting Nazam Singh against Harbhajan Singh. A complaint was thereafter made by Harvinder Kaur (sister of the petitioner) to the Deputy Superintendent of Police, Nabha against Harbhajan Singh and others and for not taking any action on FIR No. 79 of 2014 (Which was compromised on 10.12.2014). He contends that on 05.01.2015, the petitioner alongwith his wife Pushvinder Kaur had gone to village Hakimpura to drop his wife and children. In the



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evening at 5:00 p.m., the Police came there and started beating him and his wife Pushvinder Kaur which eventually resulted in causing mis-carriage. Pushvinder Kaur was taken to Civil Hospital on 05.01.2015 at 6:00 p.m. where she was examined but the foetus could not be saved due to the injuries. The petitioner was however taken into custody on the same day itself and was tortured. He was produced before the Illaqa Magistrate on 07.01.2015 and Police remand was sought but the same was denied. The petitioner was ordered to be taken to the judicial custody. A medical legal examination of the petitioner was also got conducted and it showed as many as 16 injuries on him including on his private part but ignoring the same, no action was still taken on the complaint lodged by the petitioner. He further submits that the police officials, with a mala fide intention to harass and humiliate the petitioner, took him through Bazar, Court and other different places by putting him in handcuffs without obtaining any permission from the Illaqa Magistrate. Hence, compensation for the aforesaid act was sought. He refers to the FIR No. 3 dated 06.01.2015 registered under Section 307, 332, 335, 186, 224, 511 and 34 IPC that had been specifically got recorded by the informant Gurmukh Singh, ASI that the petitioner was being taken by Constable Sandeep Singh in handcuffs. He thus contends that the factum of the non-compliance of the direction issued by this Court in the judgment of ***World Human Rights Protection Council (supra)*** stands well established.

4. Learned State Counsel on the other hand refers to the averments contained in the preliminary submissions. The relevant extract of the same reads thus:-



“3. That on 05-01-2015 on getting information to arrest accused-Harjinder Singh in case FIR No. 78 dated 7- 11- 2014, the police party headed by the SHO, Police Station Bhadson, raided the house of Nazam Singh S/o Bant Singh at village Hakimpura vide DDR No. 24 dated 05-01-2015. Copy of DDR is attached herewith as Annexure R-1. On seeing the police party Harjinder Singh sat in the car and locked the car from inside. Harjinder Singh was asked repeatedly to open the door of car, but he did not open the car for about 1½ hour and the police waited for him to come out. On seeing the police party at the house of Nazam Singh s/o Bant Singh at village Hakimpur, many neighbourer and passerby including Harnek Singh Ex-Sarpanch s/o Sarup Singh, Nirmal Singh s/o Mohinder Singh, Gurjinder Singh s/o Laxman Singh, Sandeep Kaur d/o Tara Singh, Jeet Singh s/o Gurdev Singh, Randhir Kaur w/o Jeet Singh, Hakam Singh s/o Nirjan Singh, Jagtar Singh s/o Ran Singh, Bhinder Kaur wife of Tara Singh, Harjinder Kaur w/o Harpal Singh residents of village Hakimpura, Tehsil Nabha District Patiala collected at the spot. It is wrong and hence specifically denied that the then SHO, P.S. Bhadson and ASI Gurmukh Singh etc. gave pushes and kick blows to Pushvinder Kaur wife of the petitioner, which resulted in miscarriage as alleged. No such occurrence took place. It is wrong and denied that the police took away the lady purse containing ornaments and Rs.3500/-. It is pertinent to mention here that no such allegations have been levelled by Pushvinder Kaur in her first statement (Annexure R-2) recorded by the ASI Surjit Singh. Above noted persons/ladies got recorded their statement that no such occurrence took place and no beating was given to the petitioner by the police. However, after opening the car, the petitioner Harjinder Singh was apprehended by the police party and brought to the Police Station Bhadson vide DDR No. 31 dated 05-01-2015. Copy of



DDR is attached herewith as Annexure R-3 and accused-Harjinder Singh was detained in the Police Station Bhadson. On next day i.e. 06-01-2015, the petitioner -Harjinder Singh was produced before the Learned Magistrate, Nabha and his police remand was obtained. When the petitioner-Harjinder Singh was on police remand, he was taken to his village Sauja to recover gun used in the occurrence of FIR No. 78 dated 11-7-2014, where Lakhwinder Kaur sister of Harjinder Singh, Gurwinder Singh brother in-law of Harjinder Singh and Kala Manson resident of Kheri Musalmania were present at the house of Harjinder Singh, who attacked on the police officials with iron rods and Harjinder Singh was got freed from the custody of the police. Uniforms of the police officials were torned off and caused injuries to three officials. Copies of MLR No. RK/5 dated 6-01-2015 of answering respondent is Annexure R-4, MLR No.RK/6 dated 6-01-2015 of HC Karamjit Singh No.2417 is Annexure R-5 and MLR No.4 dated 6- 01-2015 of Constable Sandeep Singh 2188 is Annexure R-6 are attached herewith. However, he was again arrested and even the petitioner chewed the index finger of one Constable to get free from him and his index finger was taken out from the mouth of the petitioner with the help of other police officials. During this process Harjinder Singh also received minor injuries. In this regard case FIR No. 3 dated 06-01-2015 (Annexure P-5), U/s 307, 332, 353, 186, 224, 511, 34 I.P.C. was registered at Police Station Sadar Nabha. However, later on Harjinder Singh was sent to Judicial custody by the Learned Magistrate, Nabha. The trial of the said case is pending before the Learned Magistrate at Nabha.

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19. That the contents of Para No. 19 of the petition are incorrect and hence denied. The petitioner was not



taken through by walk, but the petitioner was taken in vehicle to produce him before the Learned Court of Illaqa Magistrate, Nabha. Further it is submitted that the petitioner when the petitioner was in police custody, then he escaped from custody, with the help of his other associates, therefore, case FIR No. 3 dated 06-01-2015 (Annexure P-5), U/s 307, 332, 353, 186, 224, 511, 34 I.P.C. was registered at Police Station Sadar Nabha against the petitioner Harjinder Singh and his relatives and police is taking action against the accused of the said case according to law, so the present petition has been filed as a counter blast, to take the undue advantage out of these allegations. So, the judgment mentioned in this para of the petition is not applicable to the facts and circumstances of the present case.”

5. Replies by the remaining respondents have also been filed wherein the said factual aspect have been reiterated.

6. No replication has, however, been filed by the petitioner herein.

7. While Counsel for the petitioner has reiterated the submissions noticed above in his arguments and seeks corroboration of his arguments from the fact as recorded in the FIR No. 3 dated 06.01.2015 (Annexure P-5), the Counsel for the respondents have contended that the Police was carrying out investigation in relation to case FIR No. 78 and when they reached at the house of Nazam Singh to conduct a raid, Harjinder Singh (the petitioner herein) sat in the car and locked the car from inside and he refused to open the door for about one and half hour and the Police waited for him to come out. It is further argued that when the petitioner was arrested in the said FIR and was produced before the Court of Illaqa Magistrate on 06.01.2015 and his Police remand was obtained, he was taken

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to Village Sauja to recover gun used in the alleged occurrence of FIR No. 78 dated 07.11.2014, various persons open attack on the police party with iron rods and the petitioner got himself freed from the custody of police. Uniform of the police officials on duty was torn off and injuries were caused to three of them for which the medical legal examination was also conducted. The petitioner was arrested again at that point in time but he chewed the index finger of one of the constable to escape from the police custody. In the said scuffle and incident, certain injuries were also received by Harjinder Singh. FIR No. 3 was recorded with respect to the aforesaid incident of attempting to forcibly free accused Harjinder Singh from Police custody by opening attack on police party.

8. I have heard learned Counsel appearing on behalf of the respective party and have gone through the documents available on record.

9. While the specific case of the petitioner is that he was being taken in handcuffs, which is clear from the statement of the complainant ASI Gurnam Singh in the FIR No. 3 (Annexure P-5) supra itself, in relation to the incident of 06.01.2015, for which the petitioner was being taken in handcuffs, the respondent-Police have failed to produce any permissions/orders of the Illaqa Magistrate to take the petitioner in Handcuffs. The stand of the respondents about the petitioner not being taken in handcuffs stands belied since the Police official is himself the author of the said FIR. The ratio of the judgment passed in the matter of *World Human Rights Protection Council (supra)* is not disputed and is settled that a person



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cannot be taken in handcuffs except with the permission of the Court or on assigning of specific reasons.

10. However, in so far as the question of award of just compensation in relation to the aspect of handcuffs is concerned, the said aspect gives rise to a question of determination mandating leading of evidence. Such assessment cannot be done by this Court.

11. The present writ petition is accordingly disposed of at this juncture with liberty to the petitioner to approach the competent Court for computation of the compensation for the purported violation of the ratio in the judgment of *World Human Rights Protection Council (supra)* after establishing his claim and without prejudice to any right of the State to raise its lawful objections.

12. Needless to mention that in the event of the petitioner taking recourse to any such remedy, the period during which the present writ petition remain pending shall be taken into consideration while computing limitation. An effort shall be made by the competent Court to decide the said claim expeditiously.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 19, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No