

240 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.216 of 2021 (O&M)

Date of Decision: 28.02.2024

Som Raj and Another

..... Petitioners

V/s.

State of Punjab and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Mohinder Kumar, Advocate
for the petitioners.

Mr. Athar Ahmed, DAG, Punjab.

Harkesh Manuja, J. (Oral)

1. By way of present petition, prayer has been made for issuance of directions to respondent Nos.2 and 3 to conduct fair enquiry into the complaint/representation dated 27.11.2020 (Annexure P1) submitted by petitioner No.1 against the erring police officials-respondent Nos.6 to 17 for subjecting the petitioner No.2 to inhuman and brutal physical torture.

2. In the present case, the petitioner No.2 was firstly implicated in FIR No.16 dated 13.03.2020 under Sections 323, 324, 341, 427, 295 and 379B, IPC at Police Station Garhdiwal, District Hoshiarpur. Later, on account of an incident which took place on 01.09.2020 at around 10 pm, another FIR No.123 dated 02.09.2020 was registered against petitioner No.2 and few others at P.S. Haryana, District Hoshiarpur. As per the allegations levelled in FIR No.123 dated 02.09.2020, the petitioner No.2 alongwith few others being under the influence of liquor, gave beatings to the police officials.

3. It is the case set up by the petitioners in the present petition that no such incident ever took place on 02.09.2020 and the petitioner No.2 was later found innocent as per reply dated 08.08.2022. However, the grievance of the petitioner No.2 is that he was forcibly taken out from the house on the intervening night of 01.09.2020 and 02.09.2020 at around 2.55 am and was beaten mercilessly having

CRM-M No.216 of 2021 (O&M)

taken him to the Police Station but was shown to have been arrested in FIR No.16 dated 13.03.2020 and hence, the present petition.

4. On the other hand, learned State counsel submits that no such incident of giving beatings to petitioner No.2 ever occurred and there was no medical evidence to support the contentions made by the petitioners and thus prays that the present petition deserves to be dismissed.

5. I have heard learned counsel for the parties and have gone through the record.

6. Perusal of reply dated 08.08.2022 shows that the petitioner No.2 was taken into custody on 02.09.2020 and was released on bail in November, 2020 and thus, there was no question of getting any MLR conducted while he was in police custody unless the officials intended it to be done. The petitioners have specifically stated that petitioner No.2 was picked up by the police officials on the intervening night of 01.09.2020 and 02.09.2020 at around 2.55 am and was given beatings. In this regard, the petitioners has also appended the affidavit dated 29.11.2022 (Annexure P-6) and joint statement (Annexure P-7) of members of the locality of the petitioners to corroborate and substantiate the same. Once there were specific and categoric allegations leveled against the police officials of Police Station Haryana, District Hoshiarpur, it would have been fair in case the enquiry into those was conducted by some impartial Investigating Agency instead of the same being carried out by the Superintendent of Police (Investigation), Hoshiarpur.

7. Considering the aforesaid, the matter needs to be inquired into by an impartial Investigating Agency and as such, the representation dated 27.11.2020 (Annexure P1) be forwarded to the Director, Bureau of Investigation, Punjab for conducting fair and impartial enquiry thereupon, within a period of 03 months from the date of passing of this order.

8. The petition stands disposed of, in terms of aforesaid directions.

28th February, 2024

Sonia Puri

(HARKESH MANUJA)
JUDGE