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2024:PHHC:172487



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43660-2023
DECIDED ON:04.12.2024

SURAJ MOR

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. M.S. Bishnoi, Advocate for
Mr. Keshav Partap Singh, Advocate
for the petitioner.

Mr. S.S. Pannu, Addl. AG, Haryana.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking directions to get an independent inquiry conducted, to look into the illegal acts committed by Inspector Karamjit Singh, on 26.07.2021, i.e. torturing & beating the petitioner, grievously hurting the petitioner, criminally intimidating the petitioner, using his official post to cause injury to the petitioner, giving false evidence under oath, creating false evidence to cause injury, tampering with evidence etc., while he was posted as Station House Officer, Police Station Sadar Gohana, Sonapat with further direction to get the FIR registered and also to conduct inquiry into the aspect as to how the medical done without consent while in illegal detention on 26.07.2021 by respondent No.4.

2. The petitioner claims illegal detention, confinement, and brutal beatings by a police officer (Respondent No.4) and his subordinates, asserting

that these actions were carried out in misuse of their official powers. Learned counsel for the petitioner has submitted that he was detained without any formal (FIR or DDR) or even a complaint against him. He claims to have been beaten and tortured while in custody. Learned counsel for the petitioner argues that the medical examinations conducted after his detention did not show any injuries initially but later confirmed multiple injuries hours after the alleged torture. This discrepancy suggests that medical records were manipulated to conceal evidence of abuse.

3. He points out that CCTV cameras at the police station were reported as non-functional during the incident, which could have provided critical evidence regarding the events that transpired.

4. Counsel for the petitioner concludes his arguments with a call for the registration of an FIR against Respondent No.4 due to the serious allegations and evidence presented, which suggest a pattern of misconduct and abuse of power.

5. On the other hand learned State counsel has refuted the entire allegations made by the petitioner stating that the petitioner was intoxicated when he came to the Police Station and started a quarrel with the Special Police Officer deputed at the main gate of the Police Station and after that he was taken for medical examination wherein the concerned Doctor opined that petitioner had consumed alcohol and, even was ozing smell. It is also urged that further, blood sample of the petitioner was taken by the doctor which was handed over to the police but was not sent for forensic examination because the petitioner had apologized to the police and as such, no case was registered against him. It is further submitted that regular departmental enquiry was

conducted against respondent No.4, who was also placed under suspension and later on after conclusion of the enquiry the concerned authority inflicted punishment of stoppage one annual increment of respondent no. 4. It has also been pointed out by the learned State counsel that previously two enquiries were conducted against the respondent no. 4 by senior officials wherein he was found non-guilty.

6. Heard learned counsel for the respective parties at length.

7. The allegations made against Respondent No.4 are that he fabricated evidence, including false eyewitness, accounts and forged documents related to an apology letter purportedly signed by the petitioner. Evidence presented in the petition indicates that Respondent No.4 was present at the police station during times he claimed to be elsewhere, further undermining his credibility.

8. The allegation levelled against the petitioner that he consumed alcohol as per the argument raised by learned State counsel is concerned, it is suggestive that it remains crucial to conduct a blood test to substantiate this claim. It is acknowledged that the petitioner's blood was drawn during a medical examination on July 26, 2021, at 6:52 PM; however, no tests were performed on this sample. Furthermore, the blood sample was merely handed over to police personnel without any proper protocol being followed. This procedure deviates significantly from standard practices for preparing a medico-legal report. Further more, there is a conspicuous absence of any explanation or report from the medical officer (MO), respondent No. 4, or their subordinates regarding the fate of the petitioner's blood sample. This lack of accountability suggests that the blood sample was not tested with

intent, implying that the petitioner did not consume alcohol. Consequently, in the absence of a test report for the blood sample, it can be inferred that a fabricated and fraudulent medico-legal report was created by respondent No. 4, falsely asserting that the petitioner exhibited signs of alcohol consumption during his medical examination.

9. It is also evident that Respondent No. 4 did not report any malfunctioning of the CCTV cameras nor did he provide a justified explanation to the relevant authorities regarding their non-functionality during the incident in question. This lack of accountability is particularly troubling given that the CCTV footage could have been crucial in substantiating the Petitioner's claims of torture and abuse, as such incidents are typically recorded by surveillance systems.

10. Reliance can be place upon the judicial enunciation rendered by the Apex Court in the case of “**Paramvir Singh Saini v. Baljit Singh & Ors**”; **SLP ;(Criminal) 3543 of 2020**; wherein, the Supreme Court highlighted the importance of maintaining functional CCTV systems in police stations as vital evidence in investigations. The failure to do so can lead to calls for an SIT to ensure that investigation is conducted fairly and transparently, especially when there are allegations of police brutality or misconduct.

11. The Supreme Court of India has emphasized the need for an SIT in cases involving serious allegations against police officials or when there is a risk of evidence tampering. In the landmark case of **Lalita Kumari v. Government of U.P. (2008) 7 SCC 164**, the apex Court held that registration of an FIR is mandatory when cognizable offenses are reported, thereby setting a precedent for ensuring accountability in police investigations.

12. The Constitution of India guarantees fundamental rights that can be violated through police excesses. Courts have recognized that when such violations occur, particularly in cases involving illegal detention or torture, it may be necessary to constitute an SIT to investigate the matter independently and impartially.

13. The formation of SITs is also carries significance in cases where local police are implicated, ensuring that an independent body investigates allegations without bias. This is particularly relevant in cases where there is a conflict of interest or lack of trust in local law enforcement agencies.

14. The establishment of Special Investigation Teams is supported by judicial precedents aimed at ensuring transparency, accountability, and protection of fundamental rights in situations involving police misconduct or serious criminal allegations.

15. Keeping in view the severity of allegations levelled against police officials, which are *prima-facie* evident from the various inconsistencies recorded, this Court is of the view that to substantiate the averments alleged by the petitioner, this Court being the guardian of the Constitution which enshrines right of free and fair investigation, deems it appropriate, to constitute a Special Investigation Team (SIT) to headed by an officer not below the rank of Superintendent of Police, which shall consist of a D.S.P. (crime) Rank Officer and an Inspector of Police, to conduct an independent enquiry into the allegations raised in the present petition and it is further directed that the enquiry shall be completed within a period of two months from the date of the receipt of the present order.

16. Mr. M.S. Bishnoi, learned counsel for the petitioner shows

satisfaction with this direction and do not wish to press the present petition any further.

17. The present petition in the aforesaid terms stands disposed of.

04.12.2024
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>