

2024:PHHC:105992



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

212

CWP-26406-2019
Date of Decision: 14.08.2024

BALJINDER KAUR

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Gurwinder Singh Lakhyan, Advocate for
Mr. Charanpal Singh Bagri, Advocate for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab
for respondents No.1 to 4.

Respondent No.5 already *ex parte* on 10.08.2023.

Mr. Vikrant Koundal, Advocate for Mr. Rajesh Gupta,
Advocate for respondent No.6.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for directing respondents No.1 and 2 to protect the life and liberty of the petitioner and her minor son, who are allegedly being threatened by respondents No.5 and 6. It has been further averred that various complaints had been sent by the petitioner to the police functionaries but the same have not been inquired into.

Learned counsel for the petitioner has vehemently argued that the petitioner is a widow lady and is living with her minor son and daughter at House No.57, Modern Valley Colony, District Fatehgarh Sahib and they were being put to undue harassment and humiliation by respondents No.5 and 6. It is

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alleged that the said respondents kept ill intentions towards the petitioner for taking advantage and that the petitioner continued to ignore such acts of the respondents for the sake of larger peace, however, on 26.01.2019, the said respondents trespassed into the house of the petitioner at about 06.45 PM and gave beatings to her minor son, apart from hurting the petitioner herself with an intent to outrage her modesty. The matter was reported on the very next day at Police Station Fatehgarh Sahib, but they refused to register the complaint. A written complaint was thereafter sent by the email dated 27.01.2019 to the Senior Superintendent of Police, Fatehgarh Sahib with a copy of the same to the Chief Minister, Punjab as well as to the Director General of Police, Punjab. She continued to visit the offices of the official respondents on various occasion even thereafter, but no action was taken. Instead, on 08.03.2019, the private respondents threatened the petitioner with dire consequences for filing complaint against them. Intimation in that regard was also sent to the police and a complaint dated 09.03.2019 was also sent, but no action was taken thereupon. A complaint under Section 156(3) of the Cr.P.C. dated 01.04.2019 was submitted by the petitioner before the Illaqa Magistrate, Fatehgarh Sahib seeking issuance of directions to the police to register FIR. But before proceeding further a report had been sought for by the Judicial Magistrate Ist Class from the concerned police officials vide order dated 01.04.2019. In terms of the aforesaid order, an inquiry into the complaint was got conducted by the SHO, Police Station Fatehgarh Sahib from ASI Kaur Singh and the report was submitted to the Illaqa Magistrate. The counsel for the petitioner contends that

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the abovesaid inquiry was *prima facie* tainted in order to safeguard the police officials.

It is further submitted that the hearing in the complaint under Section 156(3) Cr.P.C. was adjourned by the Illaqa Magistrate for 08.08.2019 for awaiting report from the Deputy Superintendent of Police, Khamano as it was reported that the matter is being inquired into by him also. The petitioner sought information under Right to Information Act, 2005 about the status of the pending inquiry from the office of the Deputy Superintendent of Police, Khamano, which was duly supplied to her, whereby a recommendation was made to file the abovesaid complaint submitted by the petitioner. He argues that during the pendency of the aforesaid complaint, the petitioner was threatened again by the said respondents with dire consequences and for implication of the petitioner alongwith her minor son in some false cases. A fresh complaint dated 04.08.2019 was thereafter submitted by the petitioner seeking protection for life and liberty of herself as well as her minor son. The present writ petition was thereafter filed for seeking the said relief.

Responding to the above, the learned State Counsel refers to the reply dated 10.12.2019 and argues that the complaint submitted by the petitioner had been duly inquired into and a joint inquiry was conducted by not only associating both the parties but also other related persons. It transpired from the same that the parties were having dispute with each other as a complaint had been received against the son of the petitioner for driving his motorcycle in rash manner endangering the life of the residents including the

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children, whereas the allegations against the other party was about not allowing the children to play in the park of the Society. The officials did visit the Society alongwith the Vice President of the Resident Welfare Association, and no incident of entering into the house of the complainant or having misbehaved with her was reported or found. On inquiry, the police came to a conclusion that there was no cognizable offence made out and recommendation was made for filing of the said complaint. The said report was placed before the Senior Superintendent of Police Fatehgarh Sahib, who directed Superintendent of Police (Special Branch) to examine the same by involving the other police officials. Efforts were made by the Superintendent of Police (Special Branch) to associate both the parties and to afford them opportunity of hearing, on which only Ashok Kumar Chauhan and Gurjeet Singh came present to be associated but the petitioner not only refused to receive the summons but also did not come present to get herself associated with the same. The verification was duly conducted by the Senior Superintendent of Police, Fatehgarh Sahib wherein it transpired that the allegations levelled against the private respondents were not found to be proved and it was a minor dispute between the parties in relation to a separate matter. The officials visited the house of the petitioner to record her statement, but she refused to sign the said statement and did not even come present to join the inquiry despite several summons. The Senior Superintendent of Police, Fatehgarh Sahib considered the report submitted by the Superintendent of Police (Special Branch) and the same was duly approved and the complaint submitted by the petitioner was ordered to be filed.

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Even though the aforesaid reply had been filed by the respondents way back on 10.12.2019, no replication to the same was ever filed. Hence, the inquiry report remains uncontroverted.

Under the given circumstances, I am of the opinion that there is no cogent, convincing or *prima facie* evidence, on the basis whereof, the Court may find itself unable to believe the reply filed by the respondent-State or the inquiry conducted by them. It is also noticed that that the petitioner has already filed a complaint before the Illaqa Magistrate under Section 156(3) of the Cr.P.C., hence, she has already taken recourse to an alternative remedy available to her.

The present petition is accordingly disposed of as no further directions are required to be issued in the present case. The petitioner shall, however, be at liberty to pursue her pending proceedings before the Competent Court in accordance with law.

AUGUST 14, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No