

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

211

CWP-4389-2018
Date of Decision: 15.01.2024

HARINDER KAUR

... Petitioner

VERSUS

STATE OF PUNJAB & ORS

... Respondents

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

Present: Mr. Deepak Sabherwal, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present writ petition is for directing the respondents to provide adequate protection to the petitioner and her family, who are allegedly being threatened at the behest of respondents No.5 to 7.

It is alleged by the petitioner that respondents No.5 to 7 alongwith 12 other police personnel raided the house of the petitioner at 10.24 PM on the night of 18.02.2018 without disclosing any cause for raid and search. The same was undertaken in violation of the mandate of Section 100 Cr.P.C. The abovesaid search was illegal and unauthorized had traumatized the petitioner and her ten year old minor son and they have also been humiliated by the respondents. No search warrants had been obtained by the said respondents and the petitioners are in possession of evidence since the abovesaid raid was recorded in the CCTV cameras installed at the house of the petitioner.

Reply by way of an affidavit of Ravinder Pal Sandhu, PPS, Senior Superintendent of Police (Headquarter) District Fatehgarh Sahib was filed

wherein it has been alleged that the petition has been filed with an intent to pressurize the district police at Fatehgarh Sahib not to proceed against Kuldeep Singh @ Pinka (husband of the petitioner), who is an accused in case FIR No.105 dated 23.07.2017 registered under Sections 379, 411, 420, 465, 467, 468, 471, 473, 482, 483, 120-B of IPC at Police Station Sirhind, District Fatehgarh Sahib, wherein Kuldeep Singh @ Pinka—husband of the petitioner was nominated as an accused on 15.02.2018 and a Special Report had been addressed to the Circle Officer of the Police Station as well as to the Illaqa Magistrate on 16.02.2018 itself. It was averred that the said material aspect has been concealed by the petitioner about involvement of her husband in a criminal case and false motivated allegations have been levelled against the Investigating Agency. The allegations levelled against respondents No.5 to 7 were denied and it was informed that the investigation of the above said case is being undertaken in all earnest. It was also pointed out that the Investigating Officer was earlier misdirecting the investigation and a departmental inquiry has been initiated against him.

Responding to the above, learned counsel for the petitioner contends that the respondents, in their short reply filed by way of an affidavit of respondent No.5 i.e. the then SSP Fatehgarh Sahib, have referred to the disclosure made by one Davinder Kaur wife of Balwinder Singh-co-accused, wherein it has been averred that the husband of the petitioner was nominated as an accused in the said complaint and that stolen vehicles were alleged to have been recovered from the husband of the petitioner. He contends that the abovesaid aspect is a misstatement made by the respondents only to cover up their illegalities. He contends that the complaint purportedly submitted by

complainant Davinder Kaur, (wife of co-accused Balwinder Singh) has been given a UID No.1277316 which such UID was infact auto-generated in relation to a complaint submitted by RIMP University. The abovesaid contention was recorded by this Court in its order dated 09.10.2023, which is extracted as under:

“It is reflected in the order dated 12.03.2020 that the respondent-CIA Staff has made a reference to one UID No. 1277316 for initiation of the complaint in dispute. It was also noticed that the petitioner informed that the above said UID number was in relation to complaint submitted by RIMT University and had no connection with the petitioner and was not given by Smt. Davinder Kaur wife of Balwinder Singh.

Learned State counsel has sought time to seek instructions and to verify. Despite lapse of more than 03 and half years, the needful has not been done.

Learned State counsel prays for yet another opportunity to complete instructions and to make an affirmative statement in relation to the said UID number. The petition has remain pending since 2018 and since 2020 only for the aforesaid reasons.

*In the interest of justice, case is adjourned to 15.01.2024 subject to payment of a cost of Rs. 15,000/- with the “**Poor Patients Welfare Fund**’ of the **Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh**”.*

In compliance of the abovesaid order, the respondents have filed a status report by way of an affidavit of Raj Kumar, PPS, Deputy Superintendent of Police, Sub-Division Fatehgarh Sahib, wherein it has been averred that the complaint of Davinder Kaur wife of Balwinder Singh (co-accused) was inadvertently numbered alongwith the same UID and the same was later on re-numbered as 84-OP dated 06.02.2018. It is further submitted that the abovesaid

application dated 31.01.2018 (84-OP dated 06.02.2018) was inquired by the then Superintendent of Police, Fatehgarh Sahib and an inquiry report dated 18.01.2020 had been submitted. The in-charge in question was exonerated about the same.

Learned counsel for the petitioner vehemently contends that the stand of the respondents is contrary to the affidavit filed by the Senior Superintendent of Police-respondent No.5. As against the UID relied upon by the respondents earlier, the complaint was altogether different. As on the date when raid was conducted, the abovesaid complaint has actually not been filed and that an ante-dated complaint has been received only to cover their tracks.

He contends that he would be satisfied at this juncture in case the respondents are directed to constitute an SIT for an independent and impartial investigation in case FIR No.105 dated 23.07.2017 (supra) by an officer not below the rank of an Inspector General of Police and outside District Fatehgarh Sahib. He further contends that the abovesaid SIT should also look into the complaint submitted by the petitioner alleging false implication. He further submits that in order of grant adequate protection to the petitioner, let the respondents be directed to issue a 07 days' advance notice to the petitioner in the event the petitioner and/or her husband are required for custodial interrogation in the above said FIR.

Learned State Counsel has no objection to the present writ petition being disposed of by directing inquiry in the complaint and investigation in case FIR No.105 dated 23.07.2017 (supra) by an SIT.

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

Having heard the respective parties and after going through the documents appended alongwith the present petition, the present writ petition is disposed of, without commenting on merits of the rival contentions, with a direction to the respondent-State to hand over the investigation of the above said FIR No.105 dated 23.07.2017 (supra) to an SIT headed by an officer not below the rank of Inspector General of Police and outside District Fatehgarh Sahib. The said SIT shall also examine the complaint submitted by the petitioner and conduct an inquiry into the allegations levelled by the petitioner/complainant against the officials with regard to false implication. It is further directed that in the event of the petitioner and/or her husband are sought to be arrested in the abovesaid FIR and/or in furtherance of the investigation in the said FIR, an advance notice of 05 days shall be served upon the petitioner and/or her husband respectively to enable them to take recourse to appropriate remedies. The original Rapat Roznamcha which is sealed and has been submitted before this Court is directed to be returned to the respondents as per rules.

Petition stands disposed of accordingly.

JANUARY 15, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No