



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-29443-2016 (O&M)

Reserved on : 13.02.2026

Pronounced on : 25.02.2026

Jinder Singh & Anr.

..... Petitioners

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. S.S. Panag, Advocate for the petitioners.

Mr. Rohit Bansal, Sr. DAG Punjab.

Mr. H.S. Chadha, Advocate for the complainant.

SURYA PARTAP SINGH, J.

An application moved by the Investigating Officer seeking for permission to obtain blood samples for DNA examination of Mohinder Singh and two other persons, namely Joginder Singh @Jinder Singh, Bant Singh @Jaswant Kaur and Mohinder Kaur, has been allowed by the Court of learned Chief Judicial Magistrate Rupnagar, hereinafter being referred to as 'trial Court' only.

2. Aggrieved of the abovementioned order, the petitioners have approached this Court by virtue of present petition under Section 482 of Criminal Procedure Code. Vide instant petition, the order dated 25.07.2016 passed by the learned trial Court, hereinafter being referred to as 'impugned order', has been sought to be quashed/set aside.



3. Succinctly, the facts emerging from record are that in Police Station City Rupnagar, one FIR, i.e. FIR No.167 dated 06.09.2014, has been registered for the commission of offence punishable under Sections 420, 465, 467, 468, 471 of Indian Penal Code. The abovementioned FIR has been filed at the instance of Narinder Singh @Swaran Singh against the accused 'Mohinder Singh', hereinafter being referred to as 'accused' only. The abovementioned FIR came into being in the backdrop of following facts:

“that Tej Kaur widow of Gurbaksh Singh, who had inherited property from her husband, was an issueless lady. After the death of her husband, Tej Kaur adopted Narinder Singh @Swaran Singh (the son of her maternal uncle) and Mohinder Singh, the accused, (the son of her sister), as her sons. However, as per complainant after the death of Tej Kaur, Mohinder Singh procured a forged death certificate of Narinder Singh @Swaran Singh and started to claim himself a biological son of Tej Kaur. Since the allegations against the accused Mohinder Singh are that he forged the death certificate of Narinder Singh @Swaran Singh, and also that he is not the biological son of Tej Kaur, the FIR has been lodged. It has been alleged that Mohinder Singh has his own biological siblings, i.e. two brothers and one sister, namely Joginder Singh @Jinder Singh, Bant Singh @Jaswant Singh and Mohinder Kaur, respectively.”

4. Since in the abovementioned case, the core issue to be determined by the Court is the parentage of accused Mohinder Singh, in order to clinch the issue, the course of DNA testing was sought by the Investigating Agency. For the abovesaid purpose, an application was moved



before the learned trial Court, for a direction to the accused Mohinder Singh, vis-à-vis the petitioners and Bant Singh @Jaswant Singh, to give their blood samples so that by DNA profiling, it can be determined as to whether the accused Mohinder Singh is the biological brother of petitioners or not.

5. The abovementioned application was opposed by the accused. However, the objection raised by the accused could not sustain before the learned trial Court, and the learned trial Court issued the order, which has been impugned in the present petition.

6. The present petition has been filed by the petitioners on the ground that they are alien to the dispute between the complainant and the accused, and that they are not party in the case pending before the learned trial Court. As per petitioner, without affording an opportunity of being heard, to them, and also without any legal basis, a direction has been issued, whereby they have been directed to give blood samples for DNA matching with the blood sample of accused Mohinder Singh. While claiming that vide impugned order their right to privacy guaranteed under the Constitution of India is being breached, the petitioners have sought the intervention of this Court for setting aside/quashing of impugned order.

7. Heard.

8. It has been contended by learned counsel for the petitioners that an error of judgment has been committed by the learned trial Court, when it failed to appreciate the right to privacy accorded to every citizen by the Constitution of India, duly upheld by Hon'ble Apex Court. According to



learned counsel for the petitioners, the most glaring perversity in the impugned order is the direction of the learned trial Court, to the petitioners, to give their blood samples, who are complete strangers to the dispute between the litigating parties. As per petitioners, they have no concern, whatsoever, with the outcome of abovementioned litigation. It has also been contended by learned counsel for the petitioners that the learned trial Court has completely ignored the settled principles of law and also failed to take into consideration the fact that in the trial, the question of biological relationship of the accused is not the core issue, rather the core issue is the forgery of document.

9. According to learned counsel for the petitioners, the charges against the accused can be proved without going for DNA testing, as the allegations against the accused are that he had forged the death certificate of Narinder Singh @Swaran Singh, who was allegedly adopted by Tej Kaur in the same fashion, in which the accused was allegedly adopted. While claiming the breach of his right to privacy, the learned counsel for the petitioner has contended that the impugned order passed by the learned trial Court is not sustainable in the eyes of law, and deserves to be set aside.

10. The learned State Counsel has controverted the abovementioned arguments. It has been contended by learned State Counsel that in the present case, the basic dispute between the parties is two-fold. Firstly as to whether Narinder Singh @Swaran Singh, who is still alive, is the same person, who was adopted by Tej Kaur and secondly, whether the



accused Mohinder Singh is the biological son of Tej Kaur, or he is biological brother of petitioners.

11. According to learned State Counsel, in the present case the entire dispute between the parties revolves around the plea with regard to biological parentage of accused Mohinder Singh, and that the DNA profiling of the blood samples of accused Mohinder Singh if matches with DNA samples of petitioners, the issue will be nipped in the bud itself, as the claim of the accused would stand falsified that he is biological son of Tej Kaur. While claiming that the right to privacy is not an absolute right of every citizen, and that in certain circumstances when it is necessary for proper investigation of criminal case, a direction can be given by the Court for giving blood samples. While defending the impugned order, it has been contended by learned State Counsel that no illegality, whatsoever, was committed by the learned trial Court, and that the learned trial Court has acted perfectly in accordance with law of the land and also in the interest of justice. According to learned State Counsel, the present petition has got no merit and deserves dismissal.

12. The record has been perused carefully.

13. As far as the present petition is concerned, at the very outset it is pertinent to mention here that there is no quarrel qua the fact that trial for the commission of offence punishable under Sections 420, 465, 467, 468, and 471 of IPC, is going on against the accused, and in the abovementioned trial, the impugned order has been passed. However, this fact cannot be ignored that the foundation of the trial is the FIR against the accused



Mohinder Singh and allegations in the FIR are that he has forged the document, i.e. the death certificate of Narinder Singh @Sarwan Singh. Although in the FIR, there is a reference that the accused Mohinder Singh is claiming himself to be biological son of Tej Kaur, but the abovementioned claim of accused Mohinder Singh cannot be the foundation of any charge for the commission of offence punishable under Sections 420, 465, 467, 468, and 471 of IPC, against the accused Mohinder Singh. In fact, the issue to be determined by the learned trial Court, in the criminal trial, is confined to the cheating and forgery of document by the accused Mohinder Singh, and the claim of accused Mohinder Singh with regard to his biological relationship with Tej Kaur, is subject matter of Civil Courts only. As argued by learned counsel for the petitioners, such civil dispute is already in progress.

14. In the light of abovementioned discussions, it is hereby observed that in the present case, the DNA profiling is not going to help the Court in determining, as to whether any forgery of document resulting into cheating has been committed by the accused Mohinder Singh or not.

15. In addition to above, another relevant aspect to be taken into consideration in the present case is that by virtue of impugned order, a direction has been given to the petitioners, who are strangers to the dispute between the complainant and the accused Mohinder Singh. Since the petitioners are not a party to the dispute in any capacity, a direction to the petitioners should not have been issued by the learned trial Court. Even if it is assumed that the Court has got the authority to issue a direction to give



blood samples for DNA profiling, even then in the factual matrix of the present case, such direction could not have been given to the petitioners.

16. With regard to direction, given by impugned order, it is relevant to note that in the case of ‘Goutam Kundu V/s State of West Bengal & Anr.’ (1993) 3 SCC 418, the Hon’ble Supreme Court of India has observed that the Court cannot order blood test as a matter of course, and such direction must be issued only when a strong *prima facie* case and compelling circumstances are made out. The Hon’ble Supreme Court of India in the abovementioned case has also observed that a person cannot be compelled to give blood samples in routine proceedings.

17. Similarly, in the case of ‘Selvi V/s State of Karnataka’, (2010) 7 SCC 263, it has been emphasized by the Hon’ble Supreme Court of India that forcible extraction of body substances and involuntary medical procedures amount to intrusion into personal liberty and privacy protected under Article 21 of the Constitution of India. According to Hon’ble Supreme Court, any such direction must satisfy the test of legality, necessity and proportionality.

18. In the case of ‘Salaudini V/s State of Haryana’, 2010(1) RCR (Criminal) 497 (P&H), this Court observed that direction for taking blood sample must be backed by statutory authority and justified by compelling circumstances. In the abovementioned case, it has been observed that such power cannot be exercised mechanically.



19. If the abovementioned principles of law and the factual matrix of the present case are analyzed conjointly, it transpires:-

- a) that the biological parentage of accused Mohinder Singh is not part and parcel of charge being faced by the accused Mohinder Singh, as the charge is for the commission of offence punishable under Sections 420, 465, 467, 468, and 471 of IPC;
- b) that the order for giving blood sample has been accorded to the petitioners, who are not party to the dispute before the learned trial Court. No statutory provision has been cited in the impugned order, which authorizes a Court to compel an alien to the dispute, to furnish blood sample for the purpose of aiding investigation against the accused;
- c) that in the case of Goutam Kundu (*supra*), it has been observed by the Hon'ble Supreme Court of India that Courts in India cannot order for blood testing as a matter of course, and that for roving enquiry in ordinary manner, no one can compel to give blood sample for analysis; and
- d) that the learned trial Court, in the impugned order, has neither examined the question of proportionality, nor it has recorded the satisfaction regarding indispensability of the DNA testing for establishing the ingredients of the alleged offences.

20. As a sequel to abovementioned observations, it is hereby held that the impugned order suffers from non-application of mind into unwarranted infringement of the right to privacy and bodily integrity guaranteed to the petitioners under Article 21 of the Constitution of India. Thus, it is hereby held that the impugned order passed by the learned trial Court is perverse, unsustainable and needs interference and indulgence of



extraordinary jurisdiction of this Court. Accordingly, by accepting the present petition, the impugned order deserves to be set aside.

21. In view of above discussions, the present petition is hereby allowed and the impugned order is hereby set aside.

22. However, it is hereby observed that any observations made in the abovementioned order shall be construed as an expression of opinion on the merits of the case.

23. Pending Miscellaneous application(s), if any, shall also stand disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

25.02.2026
Gaurav Thakur

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