

(2023) 09 J&K CK 0047

In the Jammu And Kashmir High Court

Case No : Others Writ Petition No. 462 Of 2016

Fareed Ahmad Parra

APPELLANT

Vs

State Of J&K & Others

RESPONDENT

Date of Decision : 26-09-2023

Acts Referred:

Jammu And Kashmir State Ranbir Penal Code, 1989 — Section 341, 506

Citation : (2023) 09 J&K CK 0047

Hon'ble Judges : Rajnesh Oswal, J

Bench : Single Bench

Advocate : Asif Ali, Jahangir Ahmad Dar

Final Decision : Dismissed

Judgement

Rajnesh Oswal, J

1) The petitioner has filed the present petition for directing the respondents No.1-3 to register FIR against the respondent No.4 for the series of offences which the respondent No.4 has committed with the petitioner while he was in his custody in Police Station, Kunzer.

2) It is stated that the petitioner was arrested in FIR No.08/2016 and during his arrest, the petitioner was mercilessly tortured by the respondent No.4 resulting in bleeding from the nose and ears. Feeling apprehensive of the life of the petitioner, the respondent No.4 released him on bail on 22.01.2016.

3) The respondents have filed the response thereby raising a preliminary objection with regard to maintainability of the writ petition and simultaneously it is pleaded that on 21.01.2016, Police Station, Kunzer received a complaint from one Mohammad Sidiq Para S/o Ab. Khaliq Para R/o Larkipora Tangmarg to the effect that the petitioner without any justification had beaten the complainant and thrashed him. On the basis of the complaint, FIR No.08/2016 under Section 341, 506 RPC was registered by P/S, Kunzer and during the course of investigation, the petitioner was arrested and after one and a half hour, the

petitioner was released on bail after executing a bail bond for an amount of Rs.10,000/-. The allegations of physical torture to the petitioner at the hands of respondent No.4 have been denied in the response filed by the respondents. It is further stated that in terms of order dated 25.03.2016 passed by this Court, an enquiry was conducted in respect of the allegations levelled by the petitioner and the same were found unjustified. During the course of enquiry, the petitioner was directed to appear before the respondent No.3 for recording his statement to ascertain the facts, if any, but he did not turn up which is indicative of the fact that the petitioner intends only to malign the image of the police personnel.

4) This Court had summoned the record of the enquiry and after perusal of the same, this Court finds that SDPO, Tangmag, vide his report dated 18.04.2016 has arrived at the conclusion that the allegations levelled against the respondent No.4 were not found correct.

5) Mr. Asif Ali, learned counsel for the petitioner, vehemently argued that farce enquiry was conducted by respondent No.3 and, as such, FIR is required to be registered against the respondent No.4.

6) Per contra, Mr. Jahangir Ahmad Dar, GA, while producing the enquiry file, vehemently argued that in the enquiry conducted by the respondent No.3, the allegations levelled against the respondent No.4 were found to be false and if the petitioner is not satisfied, he has a remedy under the Code of Criminal Procedure for redressal of his grievances.

7) Heard and perused the record of enquiry.

8) The relief sought by the petitioner in the present petition is for registration of FIR against the respondent No.4. The respondent No.3 has conducted an enquiry in respect of the allegations levelled by the petitioner against respondent No.4 but no truth was found in the allegations levelled by the petitioner.

9) Be that as it may, the petitioner was/is having an equally efficacious remedy of approaching the Magistrate concerned for redressal of his grievances. Reliance is placed upon the decision of the Hon'ble Apex Court in the case of Sakiri Vasu vs. State of UP and others, (2008) 2 SCC 409.

10) In view of the above, the present petition is dismissed leaving petitioner free to avail the appropriate remedy available under law.

11) The record be returned to learned counsel for the respondents.