

(2020) 07 P&H CK 0049

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 9202 Of 2020 (O&M)

Mahant Jagtar Singh

APPELLANT

Vs

Sate Of Haryana And Others

RESPONDENT

Date of Decision : 10-07-2020

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 406, 420, 467, 468, 471
Code Of Criminal Procedure, 1973 — Section 173
Constitution Of India, 1950 — Article 226, 227

Citation : (2020) 07 P&H CK 0049

Hon'ble Judges : Anil Kshetarpal, J

Bench : Single Bench

Advocate : Ravinder Singh Randhawa

Final Decision : Disposed Of

Judgement

Anil Kshetarpal, J

The present writ petition has been filed under Article 226/227 of the Constitution of India with prayer to grant the following substantive reliefs:

â??(a) to issue a writ in the nature of Mandamus praying for issuance of writ in the nature of Mandamus praying for transfer of investigation of case

FIR No. 527 dated 12.06.2019 under Sections 406, 420, 467, 468, 471, 120-B IPC registered at Police Station Thanesar City, Kurukshetra (Haryana)

being investigated by a Special Investigating Team headed by Sh.Surinder Manjhu, HPS, DSP, Shahbad to an agency preferably outside the State of

Haryana, since various high profile political and police personnel are helping the accused in the present FIR, as more than one year has elapsed from

the date when the complaint was made, till date the investigation of the FIR is not being completed on account of undue influence over the

investigating officers, thus resulting in grave injustice to the complainant.â??

The writ petitioners claim that on an application submitted by them, FIR No. 527 dated 12.06.2019 under Sections 406, 420, 467, 468, 471 and 120-B

IPC has been registered at Police Station Thanesar City, Kurukshetra. In the FIR, precise allegations are that a religious institution in the name of

Panchayati Akahara Nirmala (Regd.) Kankhal, Haridwar, owns certain property in District Kurukshetra. Out of which, the land measuring five acres

has been sold by the accused on the basis of a resolution of the Executive Committee dated 21.09.2005. It has been alleged that the plots have been

carved out on the land and scores of the sale deeds have been registered by receiving major payments under the table.

It will be important to note that previously also, the writ petitioners filed Criminal Misc. No. M-38659 of 2009 before this Court. During the pendency

of the aforesaid criminal miscellaneous, the Special Investigating Team headed by the Deputy Superintendent of Police, Shahbad Markanda was

constituted to carry on investigations. The aforesaid Special Investigating Team is now investigating the matter. It is also pleaded that on 11.06.2020,

the writ petitioners were directed to appear before the Special Investigating Team to get their statements recorded. They were also directed to submit

whatever documents they wish to submit by 18.06.2020 although, the writ petitioners have sought 15 days time. It is further pleaded that due to

political pressure of certain leaders of the ruling party, another FIR against the writ petitioners has been registered at Haridwar on 19.06.2020.

This Court has heard learned counsel for the writ petitioners and with his able assistance, gone through the writ petition as well as the documents filed

in support thereof.

Learned counsel for the writ petitioners, while referring to the orders passed dismissing the application for grant of pre-arrest bail, has submitted that

investigations in the FIR were not progressing satisfactorily, compelling the writ petitioners to file the aforesaid criminal miscellaneous in this Court.

During the pendency of the same, a Special Investigating Team was constituted, which is now showing undue hurry to conclude the investigation due

to political pressure.

It will be noted here that during the course of arguments, learned counsel for the writ petitioners has admitted that two civil suits with regard to sale of

the property, as alleged in the FIR, are pending before the Civil Court wherein an interim order has also been passed.

This Court has considered the submissions, however, find no merits therein. It is undisputed that the Special Investigating Team headed by the Deputy

Superintendent of Police, Shahbad Markanda, has already been constituted. The investigations are still pending. The civil suits with respect to same

dispute are also pending. In these circumstances, this Court does not find any good ground to transfer the investigation as prayed for. During the

pendency of previous petition filed by the writ petitioners, the Government had constituted a Special Investigating Team. Still further, it has been

repeatedly held by the Hon'ble Supreme Court that transfer of investigation should be ordered by the Court in exercise of its power of judicial review

sparingly, cautiously and in exceptional circumstances where it has become necessary to provide credibility to the process of law. In these

circumstances, this Court has come to a conclusion that the writ petitioners have failed to make out a case for issuance of directions.

However, after the conclusion of the investigation, once the police submits report under Section 173 Cr.P.C. before the Court, the writ petitioners if

dissatisfied with the report, would be at liberty to move appropriate application before that very Court. Needless to mention that if any such application

is filed before the Court, the same shall be decided uninfluenced by the observations made herein.

With these observations, the writ petition is disposed of.

The miscellaneous application(s) pending, if any, shall also stand disposed of in terms of the main order.