
(2013) 05 P&H CK 0006
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9480 of 2013

M.P. Gupta

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 03-05-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 151
Penal Code, 1860 (IPC) — Section 323, 34, 367, 406, 420
Constitution of India, 1950 — Article 21, 226, 32

Citation : (2013) 171 PLR 252

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Sartej Singh Narula, for the Appellant;

Final Decision : Dismissed

Judgement

Rajiv Narain Raina, J.—The petitioner states that he is the son of late Shri Ruliya Ram, who was an MLA from Gharaunda for two terms, i.e., from 1962-67 and 1972-77. The petitioner is an Engineer who holds the Bachelor of Engineering Degree earned in 1968 from the Punjab Engineering College, Chandigarh. He served in the State of Haryana as an Assistant Engineer. He took voluntary retirement from the post of Executive Engineer in 2002. He claims to be a devotee of Baba Shah Satnam Ji, who was the Head of the Dera Sacha Sauda, Sirsa, since 18.04.1970. Respondent No. 4-Gurmeet Singh @ Baba Ram Raheem Singh is said to have been a follower of Dera Sacha Sauda and was declared Head of the Dera on 23.09.1990. The petitioner and respondent No. 4-Gurmeet Singh were known to each other since the days of Baba Shah Satnam Ji. The petitioner says that the 4th respondent induced him to shift to Dera Sacha Sauda, Sirsa, on his retirement to serve the cause. He was asked to sell his property and invest his savings in various factories run by Dera Sacha Sauda on the promise of returns on the investments to meet his daily needs. He was also provided residential accommodation in the Dera campus and his family shifted to the Dera in 1997, though, he took voluntary retirement in 2002 only to join

them. It is pleaded that the 4th respondent selected Priyanka @ Honeypreet, arrayed as respondent No. 5 to be wife of Viswas Gupta son of the petitioner. The marriage was performed on 14.02.1999 at a Satsang held in the Dera in the presence of the 4th respondent, in accordance with Dera norms. The petitioner as father-in-law of the bride further states that the marriage ceremony was a simple without any exchange of gifts and dowry involved.

2. It is then alleged that the 4th respondent engineered the marriage to continue his illicit relations with the 5th respondent or to develop such relations between them. The petitioner and his family was not aware of this, since the 4th respondent treated the petitioner as his brother and the petitioner's son as his own son. However, one day the 4th respondent in front of his public assembly and in the presence of the Dera Sadhus announced that he was adopting the 5th respondent as his third daughter. Vishwas Gupta was declared as his son-in-law. However, after the said adoption, the 5th respondent was not allowed to live with her husband even for a single day. She stayed at the Dera all the time. She accompanied the 4th respondent in all his religious tours out of Sirsa sometimes for long periods.

3. The petitioner, father-in-law of the 5th respondent alleges illicit relationship and adultery between the two. In view of this turn of events, he says that he moved out of the Dera with his family and shifted to Panchkula on 16.07.2004. But the 5th respondent continued to live with the 4th respondent on which the petitioner says she was enticed by his power, popularity and financial wealth to live with him.

4. They claim that they made an attempt to bring back the 5th respondent to her matrimonial home but she expressed her desire to live with the 4th respondent. All this led to the registration of an FIR No. 181 dated 13.10.2011 under Sections 498-A, 406, 506, 504, 367, 323 and 34 IPC at Police Station Sadar Sirsa against the petitioner, his wife and son, husband of the 5th respondent. The complainant in the FIR is Priyanka @ Honeypreet. On registration of the FIR they were admitted to bail by the Court against which the 5th respondent filed an application for cancellation of bail through Criminal Miscellaneous No. M-2317 of 2012 tiled before this Court. The petition was, however withdrawn on 01.02.2012. It is then stated that the 4th respondent kept stalking the petitioner and his family to bring them to harm and they are being followed by the henchmen/followers etc of the 4th respondent, with a view to get them eliminated. This led to a Kalendra u/s 107 and 151 Cr.P.C. against seven persons responsible for stalking. Security by way of a gunman was also provided to Viswas Gupta from 12.08.2011 to 21.09.2011 which was withdrawn.

5. The 4th respondent is held responsible for withdrawal of security. The petitioner submits that since Viswas Gupta was handed over the management of a firm actually owned and run by Dera Sacha Sauda during the course of which business, an FIR No. 9 dated 17.01.2013 u/s 406, 420 IPC came to be registered at Police Station Sohana, S.A.S. Nagar, Punjab, for dishonour of cheque issued by

him. Viswas Gupta was arrested in this case on 20.01.2013 and was remanded to judicial custody and detained at Central Jail, Patiala. Viswas Gupta was admitted to regular bail on 04.02.2013. The 4th respondent is held responsible for these FIRs in this petition. It is said they are under stress of elimination for raising their voice against the 4th respondent for continued adultery being committed by the 4th respondent with the 5th respondent. The petitioner's property and investments are also lost according to him to the Dera. The petitioner has attached the report of 2002 of the learned Sessions Judge, Sirsa, which shows the Dera Sacha Sauda in bad light. In para 3.10 of the petition it is stated that another FIR had been lodged against Viswas Gupta relating to a proprietorship concern concerning M/s Sunup Seeds owned by the 4th respondent. The 4th respondent had nominated Viswas Gupta as Proprietor from May 2007 till August 2010. The petitioner's son has now received notice of cheating on 01.04.2013. A large number of blank unused cheques signed by Viswas Gupta have been mentioned in the petition. In view of this, the petitioner prays that an independent probe be ordered by the Central Bureau of Investigation, arrayed as respondent No. 3, which can fairly and impartially investigate the trivils of the petitioner, his wife and son.

6. Mr. Narula appearing for the petitioner relies on various judgments of the Supreme Court in Babubhai Vs. State of Gujarat and Others, State of Punjab Vs. Central Bureau of Investigation and Others, and Akhilesh Yadav v. Viswanath Chaturvedi, Review Petition (Civil) No. 272 of 2007 in Writ Petition (Civil) No. 633 of 2005 decided on 13.12.2012. Mr. Narula also relies on the judgment of this Court in State of Punjab Vs. Davinder Pal Singh Bhullar and Others etc., , to contend that Article 21 of the Constitution of India guarantees fair investigation. He further submits that the State police is not in a position to serve the ends of justice and, therefore, an independent agency like the Central Bureau of Investigation should be entrusted with the mandate to investigate the affairs of the 4th and 5th respondents in the background of threat of elimination at the hands of the 4th respondent and to enable him to retrieve his investments from the Dera Sacha Sauda of which he has been defrauded of by the 4th respondent.

7. Though, it is constitutional duty of this Court to protect life under Article 21 of the Constitution of India but in order to do consider the prayer the Court would have to take into account the totality of the circumstances, the nature of the extent of threat of elimination on account of non-interference, the status of the parties, their inter se relationship, their proximity with each other, the pleadings upon which the claim is found and many other imponderable factors, the strength or weakness of the local police and the principle of law enunciated by the Constitution Bench of the Supreme Court in State of West Bengal and Others Vs. The Committee for Protection of Democratic Rights, West Bengal and Others, , in which the Court has observed as follows:-

69. In the final analysis, our answer to the question referred is that a direction by the High Court, in exercise of its jurisdiction under Article 226 of the

Constitution, to CBI to investigate a cognizable offence alleged to have been committed within the territory of a State without the consent of that State will neither impinge upon the federal structure of the Constitution nor violate the doctrine of separation of power and shall be valid in law. Being the protectors of civil liberties of the citizens, this Court and the High Courts have not only the power and jurisdiction but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly.

70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.

8. The bedrock of a claim for investigation by the Central Bureau of Investigation could be founded at least on an averment that the local police is not fair and impartial in investigating the above-said two FIRs against the son of the petitioner and one allegedly in the offing. If the daughter-in-law of the petitioner, on her free will, chooses a path to follow, there is a little anyone can do in writ jurisdiction. Writ proceedings are not meant for washing dirty linen in Court or in public view or on any filthy pleadings presented before this Court, and that too to salvage the petitioner's son from criminal action by levelling scurrilous allegations without the son complaining. It is not the case set up that the 5th respondent is staying in the Dera against her will. This is not a petition for habeas corpus of detention against the will of a citizen. The 5th respondent has a right to lead her life the would she wants. Personal moral values of people should not normally be subject matter of investigation in writ jurisdiction as they would be beyond judicially manageable standards. If the allegations are taken to be true then it would remain open to Viswas Gupta to bring action on charge of adultery as a matrimonial offence. Viswas Gupta against whom the FIRs have been lodged, is not before the Court complaining of threat or elimination, or threat to life and liberty or that the local police is acting contrary to law. The

matrimonial relationship between Viswas Gupta and the 5th respondent remains a matter personal to him, which cannot be aired or vindicated in this petition to which he is not a party. If the petitioner has parted with his property and investments that would appear to be a civil dispute for which the petitioner can take recourse to civil law. Whether the petitioner was induced to part with his property unlawfully to achieve bliss is not an issue which can be decided under Article 226 of the Constitution of India. If the nature of inducement is criminal in nature then the petitioner can take recourse to alternative remedies. I do not find for the above reasons anything in the petitioner to support calling upon the respondents to respond to the petition. Even assuming that an offence of adultery is being committed, the writ court is not appropriate forum to correct morality. I also do not find reason enough in this petition to invoke jurisdiction under Article 226 of the Constitution to order a C.B.I., enquiry in this matter, where there is not even a clear and categorical assertion that the local police is playing truant or subverting justice. The burden of the song that the 4th respondent that is masterminding the FIRs and tailoring the results, then I am sorry to say, that the son of the petitioner appears to have voluntarily involved himself in business deals with the Dera, which he cannot easily distance himself from. The son of the petitioner who is not aggrieved in this case would be free to approach Court against the FIRs, if advised. In case such a challenge is brought the roster Court, it is trite to say, that it would examine the issue at the threshold in accordance with law.

For these reasons, I do not find that this is a fit case for interference at the hands of the petitioner or to direct the C.B.I., to investigate FIRs for cheque bouncing and for dowry, or to pre-empt future actions which cannot be contemplated at present.

Dismissed.