
(1998) 11 P&H CK 0065

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 1793 of 1997

N.S.Tiwana

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 18-11-1998

Acts Referred:

Citation : (1999) 1 AICLR 499 : (1999) 1 RCR(Criminal) 463

Hon'ble Judges : R.L.Anand, J

Advocate : C.M. Sharma, Shailender Singh, Navkiran Singh, Advocates for appearing Parties

Judgement

R.L. Anand, J.

1. Sh. N.S. Tiwana and his father Sarup Singh have filed the present writ petition under Article 226 of the Constitution of India read with section 482, Cr.P.C., in which they have sought multifarious directions : (i) that this court should order for the reinvestigation of case FIR 235 dated 13.4.1997 registered at Police Station Civil Lines, Hisar. According to the petitioners, this case has been falsely registered against petitioner No. 1; (2) that CBI should also go into the aspect of the role played by the Hisar Police for shielding the culprits who on different occasions attacked, burnt the house and they even attempted to burn the jeep of the petitioners, the petitioners and their family members should be provided security by the C.R.P.F. being the members of the minority community in the Haryana State as the petitioners apprehend a genuine danger at the hands of antisocial elements with the active connivance of the Haryana Police; and (4) that the proceedings pending in the court of Shri A.K. Raghav, Addl. Sessions Judge, Hisar, pertaining to case FIR 235 dated 13.4.197 may be stayed till the inquiry by the CBI is conducted.

2. Before I proceed further, it may be mentioned here that when this petition came up for hearing before Hon'ble K.K. Srivastava, J. on 9.9.1998, the learned counsel for the petitioners did not press the reliefs No. 1 and 4 and confined his reliefs on nos. 2 and 3 only.

3. Though the pleadings are long but in short the case of the petitioners is confined in para8 of the writ petition. As per the allegations of the petitioners, on 21.5.1996, Rakesh Kumar and Tilak Raj along with some anti social elements firstly tried to set the jeep of the petitions on fire but that attempt was foiled. Petitioner No. 1 even identified those antisocial elements and the matter was reported to the Police Station City, Hisar. on 21.5.1996 itself and a DDR No. 34 to that effect was registered. The case set up by the petitioners is that it was incumbent upon the part of the police to register the FIR when a cognizable information was disclosed to them but instead of performing their statutory duty they simply recorded DDR No. 34. It is further alleged by the petitioners that one more incident took place on 27.7.1996 when these two persons along with other miscreants tried to set the house of the petitioners on fire. They partially succeeded in their attempt as the outer doors and windows of the ground floor of the house were burnt down. The petitioners again reported the matter to the Police Station City Hisar but the police in its own wisdom instead of writing an FIR, again wrote a DDR on 1.8.1998. The petitioners further allege that in fact the antisocial elements were being led by O.P. Mahajan, M.L.A., now Minister in the Haryana Govt. and the local police had acted in connivance with the antisocial elements who are being supported by O.P. Mahajan. It is the case of the petitioners that the local police of Hisar is also shielding the antisocial elements at the instigation and behest of Mr. Mahajan and, in these circumstances, the petitioners who belong to the minority community have a genuine apprehension about their lives. In the light of the above broad allegations, now the prayer of the petitioners is twofold; (i) to provide C.R.P.F. security and (ii) the criminal case may be registered with regard to the incidents dated 21.5.1996 and 27.7.1996.

4. The stand which has been taken up by the Station (State ?) is that the petitioner No. 2 Sarup Singh lodged a written complaint against Rakesh Kumar and Tilak Raj on 21.5.1996 and DDR 34 dated 21.5.1996 was recorded. The allegations of the DDR were enquired into and, ultimately, it was found that Tilak Raj and others were innocent to which even the petitioners agreed and a compromise was effected between the parties. In this regard DDR No. 9 dated 22.5.1996 was recorded in Police Station City Hisar in the presence of SI Som Raj, the then acting SHO, Police Station City, Hisar and in the presence of 8/9 persons who also witnessed the said compromise. It has been further stated by the respondents that no cognizable offence was found to have been committed vide DDR No. 34 and, therefore, no FIR was registered on that score. Further, the stand of the State is that with regard to the second incident, the security proceedings were initiated and the matter is still pending before the Executive Magistrate.

5. The learned counsel appearing for UOI submits that the paramilitary forces like C.R.P.F. cannot be deputed for the benefit of the petitioners because primary function of the paramilitary forces, which are put at the command of the State authorities is to protect such sensitive places against which the paramilitary

forces are deployed.

6. The learned counsel for the petitioners submits that the police authorities of the Hisar District failed to discharge their statutory duty on receiving the information of the cognizable offence and it was obligatory on their part to register the FIR instead of DDR in view of the famous case of Chaudhary Bhajan Lal v. State of Haryana. The counsel also submitted that the petitioners belong to the minority community of the country and they are under constant threat to their life and property at the hands of O.P. Mahajan who is an influential person and at whose behest every mischief is being done, and, in these circumstances, a case of adequate protection of the person and properties of the petitioners is made out and it is the duty of the State to provide protection to a citizen and the State cannot discriminate any person on the basis of caste, religion or sex.

7. I have considered the submissions raised by the counsel for the petitioners. There is no dispute with the proposition as submitted by the counsel for the petitioners that it is the paramount duty of the State to provide adequate protection to a citizen but the question for determination would be whether the petitioners are entitled to a particular type of security as demanded by them and the answer of this court is in the negative. No doubt, the petitioners belong to a minority community of this country but their demand in the given circumstances, for the deployment of C.R.P.F. security would be highly unjustified. With regard to the second submission raised by the counsel for the petitioners, DDR 34 has already been enquired into and it was found to be false. Nebulous informations are not supposed to be translated directly into an FIR. The police enquired into the allegation and finally a DDR 9 dated 22.5.1996 was recorded vide which the petitioners have compromised. With regard to the second incident, the police went into action and came to the conclusion that the offence, prima facie, is not made out as stated by the petitioners. The persons who were allegedly responsible for committing the breach of peace, against them security proceedings were started. If the petitioners still feel that the police has got DDR 9 dated 22.5.1996 recorded under duress or compulsion, they will be at liberty to file a criminal complaint in the court of competent jurisdiction not only with regard to DDR No. 9 dated 22.5.1996 but also with regard to the incident dated 22.7.1996.

8. As I have stated above, that it is the paramount duty of the State to give and provide adequate security to a citizen, therefore, a limited relief is granted to the petitioners and directions are given to respondents 3 and 4 to ensure the safety of the petitioners not only of their person but also of their property. They will not be harassed either at the hands of respondent No. 6 or anybody else. It is expected that the State police will function according to law and the petitioners shall not be harassed in any manner simply on the ground that they dared to file the present petition against O.P. Mahajan.

With the above observations, the petition stands disposed of.

Copy of the order be sent to respondent Nos. 3 and 4 for compliance.