
(1996) 09 SHI CK 0035
In the High Court Of Himachal Pradesh
Case No : Criminal W.P. No. 2 of 1995.

Pawan Kumar

APPELLANT

Vs

The U.T. Administration, Chandigarh and Others

RESPONDENT

Date of Decision : 30-09-1996

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 200, 202

Citation : (1997) 1 ShimLC 172

Hon'ble Judges : M. Srinivasan, C.J.; Kamlesh Sharma, J

Bench : Division Bench

Advocate : Sanjay Dutt Vasudeva, for the Appellant; Rakesh Jaswal, Advocate, Mr. Indar Singh, Advocate General and Mr. Rajiv Shanna, Advocates for Respondents 1 to 6, for the Respondent

Judgement

M. Srinivasan, C.J.—The Petitioner claims in this writ petition compensation of Rs. 5 lakhs by way of damages for certain alleged illegal acts committed by respondents 3 to 6. We are not now going into the merits of the allegations in view of certain circumstances which we are going to refer herein. The occurrence is said to have taken place on 13.3.1994. The Petitioner's claim is that he was tortured in the Police Station at Manimajra (Chandigarh). One Rakesh Gupta, Advocate, Punjab and Haryana High Court filed a Civil Writ Petition (P1L) No. 5260/94 in the High Court of Punjab and Haryana for direction to look into the procedural irregularities committed by the concerned Sub Inspector and for other reliefs. The Petitioner filed an affidavit in that proceeding and took part in the same. He made a prayer for payment of compensation to him. Ultimately, the Division Bench of that Court passed order on July 4, 1994 after hearing the counsel for the parties and perusing the record, directing the Petitioner herein to initiate criminal action under the provisions of CrI.P.C Pursuant thereto the Petitioner herein filed regular complaint on the file of Chief Judicial Magistrate, Shimla against respondents 3 to 6 u/s 200 and 202 CrI.P.C.....

2. This is a matter in which there are disputed questions of fact.

3. Hence in our opinion the matter can be disposed of satisfactorily in accordance with law by the Chief Judicial Magistrate himself as he is in a position to refer to the entire evidence which could be adduced by the parties before he comes to a proper conclusion.....

Cr.M.P. No. 220/96: 5. It is not possible at this stage to order payment of compensation to the Petitioner as prayed for by him, as it will amount to granting of decree in advance and also satisfying the decree before judgment is rendered. Such a course cannot be adopted by any Court. In the circumstances, the amount which is deposited to the credit of this proceeding shall be transferred to the Court of Chief Judicial Magistrate, Shimla, to be kept in deposit to the credit of the proceedings pending before him as referred in our order. The Chief Judicial Magistrate shall pass appropriate directions with regard to disbursement of the amount after the main proceeding pending before him is concluded. It is open to the Chief Judicial Magistrate to exercise powers u/s 357, CrI.P.C, if he finds that the facts of the case and the conclusion thereon warrant the same. The CMP is disposed of.