

(2014) 07 P&H CK 0725
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 22526 of 2013 (O&M)

Sukhdev Kumar Sharma

APPELLANT

Vs

U.T. Chandigarh

RESPONDENT

Date of Decision : 04-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Penal Code, 1860 (IPC) — Section 323, 34, 452, 506

Citation : (2014) 07 P&H CK 0725

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Jagmohan Bansal, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Ritu Bahri, J.

C.M. N. 3329 of 2014

1. Application is allowed as prayed for.
2. Accordingly, Annexures P-13 and P-14 are taken on record.

Main case

3. The petitioner has approached this Court by way of instant writ petition filed under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari quashing enquiry report dated 27.11.2012 (P-1) whereby the enquiry officer discharged Uday Pal Singh, Inspector-respondent No. 3 and further prayer is for issuance of writ in the nature of mandamus directing some independent agency to make enquiry against respondent No. 3 in a fair and independent manner.

4. A regular departmental enquiry was initiated against respondent No. 3 pursuant to order dated 20.05.2011 (P-10) passed by the Police Complaint

Authority. A complaint was made by the petitioner with the Police Complaint Authority alleging that there was a dispute pending in the civil suit with regard to H. No. 1229, Sector 44-b, Chandigarh with his wife. Petitioner No. 1 purchased the said house in the name of his wife Smt. Kamal Sharma. However, wife of petitioner No. 1 after conniving with her brother Vinod Prasher insisted the petitioner to sell his house but petitioner No. 1 was not ready to sell his house. Thereafter, the wife of the petitioner No. 1 after conniving with her brother started making false complaints against petitioner No. 1 and his son. In the civil suit, wife of petitioner No. 1 gave a statement that she will not sell the property till the pendency of the suit and she will not restrain the entry of defendant in case he come there as her husband. But when petitioner No. 1 and his son reached the house on 06.01.2010, she raised objection. She called PCR Zypsy. SI Jai Bhagwan visited the spot and found nothing wrong.

5. On 07.01.2010, Mohit Sharma i.e. son of petitioner No. 1 got a threatening call at his mobile number and he lodged a DDR NO. 07.01.2010 and letter dated 07.01.2010 (P-5 and P-6).

6. On 08.01.2010, petitioner No. 1 filed contempt petition against Smt. Kamal Sharma and others before the learned Court. On 08.01.2010, the petitioners and son of petitioner No. 1 received call from SHO Uday Pal Singh and SI Nirmal Singh who told them to come to Police Station in respect of complaint given by petitioner No. 1 on 09.01.2010.

7. On 09.01.2010, petitioner No. 1 and Mohit Sharma reached the Police Station, Sector 34, Chandigarh but they were shocked to see Smt. Kamal Sharma along with some other persons who were already present in the room of respondent No. 3. Respondent No. 3 ordered his staff to take away the petitioners as no CCTV cameras installed in that room and also manhandled the petitioners. Respondent No. 3 misbehaved with the complainant despite the fact that he had shown the Court orders passed in the Civil suit. He threatened the complainant to withdraw the civil suit. Petitioners and Mohit Sharma were arrested and sent to judicial custody and they were released on regular bail on 11.01.2010. Petitioners required SSP Chandigarh to reinvestigate the case of F.I.R. No. 14 dated 09.01.2010. Copies of letters dated 05.03.2010 and 21.01.2011 is P-8 colly. The complainant remained in judicial custody for 03 days i.e. 09.01.2010 to 11.01.2010.

8. A notice of this complaint was given by the Police

9. Complaint Authority to which respondent No. 3 did not file any reply. In its order dated 20.05.2011, the Police complainant Authority made following observations:-

Ironically, the husband is facing a charge of house trespass (with a criminal intention to commit an offence) in respect of his own house, though purchased by him in the name of his matriculate housewife. SHO's intention undoubtedly was to make the case non-bailable so as to detain three persons in custody till

they were granted bail by the Court after two days.

10. A direction was given that respondent No. 3 be placed under suspension forthwith and a departmental inquiry be initiated against him. After this order was passed, a regular departmental inquiry was initiated against respondent No. 3. As per enquiry report, H. No. 1229 Sector 44-B Chandigarh was in the name of Smt. Kamal Sharma wife of petitioner No. 1, the complainant in the PCA complaint. Sukhdev Kumar Sharma filed a civil suit regarding the ownership of this house due to which strained relations developed between husband and wife and since then they Sukhdev Kumar Sharma and his son Mohit Sharma are residing separately and Smt. Kamal Sharma is residing in H. No. 1229, Sector 44-B, Chandigarh. Number of complaints were filed by both the parties against each other with the police authorities. During the hearing of civil suit, Smt. Kamal Sharma gave a statement to the effect that she will not sell the property till the pendency of the suit and she will not restrain the entry of defendant in case he come there as her husband. Sukhdev Kumar Sharma and Mohit Sharma also gave an undertaking to the SHO, P.S. Sector 34, Chandigarh that in future they will not enter the house of Kamal Sharma neither contact her in future. In case the need to go to the disputed premises arise they will obtain the prior permission from the Court where the case is pending adjudication. DDR No. 45 dated 03.11.2009 has been lodged in this regard. However, petitioners and son of petitioner No. 1 Mohit Sharma forcibly entered to the disputed premises on 06/07.01.2010 and started threatening Kamal Sharma. She called the police and SI Jai Bhagwan reached the spot but Kamal Sharma due to fear did not give any complaint against the three intruders. On 07.01.2010, Vinod Prashar brother of Kamal Sharma got her admitted in GMCH-32 for medial treatment due to injuries caused during the quarrel that took place during the night of 06/07.01.2010 and the matter was reported from GMCH-32 to PS 34 and SI Nirmal Singh reached at the spot and recorded the statement of Kamal Sharma and DDR No. 69 dated 07.01.2010 was lodged in this regard. Thereafter, F.I.R. No. 14/2010 u/s. 323/452/506/34 IPC was registered and all the three accused were arrested as per procedure on the same day. On 10.01.2010 they were produced in the Court and were sent to judicial custody and on 11.01.2010, they were bailed out. Statement of all the PWS have been recorded and the allegations levelled by petitioner No. 1 were not proved and it was found that Sukhdev Kumar Sharma and his son are Advocates by profession and are thus making false complaint with intention to get benefit in the criminal case in which they are accused and are facing trial in the Court below. No evidence was led by the complainant before the Enquiry Officer that respondent No. 3 was present at the spot and had arrested him.

11. Keeping in view of the above fact, no directions are required to be given for further independent inquiry.

12. The writ petition is dismissed.