

CRM-56-2024

(1)

Palak Dev Vs. The Deputy General of
Police & Anr.

**IN THE COURT OF SANDEEP KUMAR SINGLA,
ADDITIONAL SESSIONS JUDGE,
SAS NAGAR (MOHALI).**

CNR No.PBSA01-000670-2024

CIS No. CRM-56-2024

Date of decision : 03.04.2024

Palak Dev aged 34 years, D/o Vijay Kumar Dev, presently residing at H. No.
122, Sector-17, Panchkula, 134109.

.....Petitioner.

Versus

1. The Deputy General of Police, Punjab Police Head Quarters, Sector-9,
City Chandigarh.
2. Amanjot Kaur Inspector, 27/JRT Cyber Cell, Mohali, Phase-4, SAS
Nagar, Mohali.

..... Respondents.

**Application under Section 156(3) Cr.P.C. seeking
directions for registration of FIR against respondent
no.2.**

Present : None.

O R D E R

1. The present application has been filed by the petitioner Palak
Dev under Section 156(3) Cr.P.C. for seeking directions to register FIR
under relevant provisions of Prevention of Corruption Act, on the basis of
complaint made on Chief Minister's Anti Corruption helpline number
against respondent no.2 Amanjot Kaur Inspector, who has been seeking
bribe of Rs. 25 lacs in FIR No.9 dated 10.01.2024.
2. The facts of the case are that FIR No.9 dated 10.01.2024, P.S.

Sohana, under Section 420, 120-B IPC and Section 66 of I.T. Act was registered by Inspector Amanjot Kaur, Incharge Cyber Cell, SAS Nagar against Vijay Raj Kapuria and against 5 other persons. Inspector Amanjot Kaur is complainant as well as investigating officer of the said FIR. As per allegations, she received secret information at about 2.50 A.M., and got lodged the FIR at 3.55 A.M., and immediately conducted the raid and arrested 4 persons without following guidelines of Hon'ble Supreme Court of India. During the police remand on 11.01.2024 Inspector Amanjot Kaur demanded Rs.50 lacs from Vijay Raj Kapuria and assured him of not being tortured during the police remand and also to help him in getting bail. He refused and then they were beaten up with sticks on their foot soles and 2 days more remand was sought. During second police remand on 12.01.2024 Vijay Raj Kapuria negotiated with Amanjot Kaur and she agreed to take Rs.25 lacs as bribe and asked him to inform his wife and applicant Palak Dev, who is his family friend and lawyer to arrange the money. On 13.01.2024 Vijay Raj Kapuria called his wife from mobile no. +918264819152 and told his wife to come and meet him in the police station and also to arrange Rs.25 lacs. The audio recording of the same was available. Thereafter, Vijay Raj Kapuria was provided his own phone and laptop to call his wife and informed that he had transferred an amount to her account and asked her to come and meet him in the police station. Thereafter, another call was received by applicant from Vijay Raj asking her to come and meet in police station. Applicant and Sunita wife of Vijay Raj Kapuria went to the police station and met Vijay as well as Inspector

Amanjot Kaur, who told them to arrange the money otherwise she will beat them and not let them live in peace. The matter was reported to the Vigilance Bureau and on the next afternoon Vigilance Bureau called Sunita Kumari and assured her to lay a trap to apprehend Respondent no.2 red handed. The applicant and Sunita Kumari was called by the Vigilance officials. During that time a phone call was received by applicant from mobile No. +918699748808 which belongs to gunman of respondent no.2, who asked her I she has any message from the respondent no.2. The applicant told him that they were waiting for further instructions. Then after few minutes call was received from respondent no.2 from her gunman's mobile number asking about the meeting and how much time it will to take to arrange the things. The applicant responded that by Monday. The respondent no.2 asked her to remain in touch with her gunman. The recording of all these talks were available. The Vigilance official asked to provide more information and also provided her a recorder to record the same. Sunita Kumari got a call from Vigilance Department and they guided her to file a complaint on Anti Corruption helpline of Punjab on 9501200200 alongwith all the recordings on 14.01.2024. The respondent no.2 is running a extortion racket and trying to cover up her wrong doings by involving the applicant, so that applicant not may pursue the present complaint. Respondent no.1 and Vigilance officials were informed about details of matter on 15.01.2024, but to no avail.

3. On the request of applicant status report from Vigilance Department was called. The Assistant General of Police, Vigilance Bureau has submitted report dated 07.02.2024 wherein he has mentioned about one

video call of 1:35 minutes of one lady with Inspector Amanjot Kaur and from the transcript it is made out that respondent no.2 was asking to arrange cash and she had asked for time till Monday to arrange the same. Then respondent no.2 told her to arrange the amount by Monday. Then statement of respondent no.2 was also recorded, who denied having demanded any bribe. Sunita Kumari was confined in Jail at Nabha and her statement was recorded. She further stated that she does not know Punjabi. The video did not have her voice. She will give complete statement only when she is released from custody. However, she requested that complaint be kept pending. The Assistant Inspector General of Police observed that since Sunita Kumari denied her voice in the video, the allegations were not found to be proved.

4. However, this Court is of the view that only the status report regarding allegations was called from the Vigilance Bureau and Vigilance Bureau was not asked to report as to whether any offence was committed by respondent no.2 or not. The applicant has attached the pen drive of the various recordings and also copy of complaint regarding extortion by Amanjot Kaur sent to Director General of Police through e-mail. The transcript of one of the video recording has been reproduced in the report of AIG, Vigilance Bureau which clearly goes to show that respondent no.2 was demanding bribe from the applicant. All these facts are required to be thoroughly investigated. The accused in FIR No. 9 were running I.T. Solution Company. An FIR has been registered on the basis of secret information by respondent no.2 Amanjot Kaur, who is herself investigating

officer of the case.

5. The allegations in the said FIR are matter of evidence, which are to be decided as per law by the concerned Court, but at present the question is to be seen is whether Inspector Amanjot Kaur had demanded bribe from the accused to get help him in getting bail and not harassing him during the police remand. Sunita Kumari and applicant had approached the Vigilance Bureau and Vigilance Bureau gave various instructions to them and had planned to lay a trap to apprehend respondent no.2 with bribe money, but it appears that either the information was leaked to respondent no.2 or the trap did not mature due to some other reasons. Even AIG, Vigilance Bureau has not mentioned about these facts in his report. The applicant and Sunita Kumari have been left with no alternative to file the present complaint. Though the applicant has some evidence in the form of audio video recording, but she cannot collect the entire evidence herself to link the respondent no.2 with the offence, as the voice samples are required to be compared and recoveries are to be made. Rather for last 2 dates no one appeared for applicant, which shows that respondent no.2 might be pressurising the applicant not to pursue the present application. However, the court cannot turned its eyes from the factual situation as it is made out from the fact and documents on file.

6. Section 156(3) Cr.P.C. provides that any Magistrate empowered under Section 190 Cr.P.c. may order to investigate cognizable offence within jurisdiction of said Court. In case titled as “**R.R. Chari Vs. The State of Uttar Pradesh, 1951 AIR 207**” the Three Judges Bench of

Hon'ble Supreme Court of India has held that before it can be said that a magistrate has taken cognizance of an offence under Section 190 (1) (a) of the Criminal Procedure Code, he must not only have applied his mind to the contents of the petition but have done so for the purpose of proceeding under section 200 and the subsequent provisions of the Code. Where he applied his mind only for ordering investigation or issuing a warrant for purpose of investigation, he cannot be said to have taken cognizance of the offence. In **“Lalita Kumari Vs. Government of UP (2014) 2 SCC 1 (S.C.)** it has been held that if the information regarding commission of cognizance offence is given to Incharge of the police station, he has no option but to enter the substance of the information in the prescribed form and register the case. The Hon'ble Supreme Court of India carved out certain exceptions to the mandatory registering of FIR and to conduct the preliminary inquiry. However, in the present case no preliminary inquiry is required to be conducted to verify the veracity of the allegations. The evidence to be collected is beyond the reach of the complainant, which is required in this case to prove the allegations. The respondent no.2 is police officer and her custodial interrogation will be very much required to discover all the facts and to collect all the incriminating evidence. The allegations made in the complaint are required to be thoroughly investigated and scientific investigation is required to be conducted.

7. Regarding necessity of obtaining sanction, it is well settled that no sanction as envisaged under section 197 Cr.P.C. is not required in such like cases. The said protection is available only when the act is done or

reasonably connected with discharge of official duty. The demand of bribe can no way to be connected the official with the discharge of duty and thus, no sanction is to be required in this case. This observation is also supported by finding of Hon'ble Supreme Court of India in case titled as "**Parkash Singh Badal Vs. State of Punjab 2007(1) RCR CrI. S.C. 1**".

8. In view of all facts and evidence on file, it is made out that there are serious allegations against the respondent no.2 disclosing the cognizable offence, for which thorough investigation is required to be conducted. Hence the present application is allowed and complaint/petition under Section 156(3) Cr.P.C. is referred to Director General of Police, Punjab i.e. respondent no.1 for directing the concerned authority to register the FIR against respondent no.2 under relevant provisions of law and to direct the case to be investigated by a senior officer not below the rank of Superintendent of Police, as accused is herself a Inspector of the police. The complaint/petition be treated as First Information Report. The copy of order is being sent to Director General of Police as the complainant had failed to get justice even despite filing complaint before the Vigilance authorities and also on the Chief Minister's helpline. Copy of petition alongwith this order be sent to DGP, Punjab, immediately for necessary compliance. The application stands disposed of accordingly. File be consigned to record room.

Pronounced

Dated : 03.04.2024

Jatinder Singh Stenographer Gr.-I

(Sandeep Kumar Singla)

Additional Sessions Judge,

SAS Nagar (Mohali).

UIDNo.PB0118