

CWP-PIL-93-2023 (O&M) and other connected cases

COURT ON ITS OWN MOTION V/S STATE OF PUNJAB AND ORS

Present:- Ms. Tanu Bedi, Advocate as *Amicus Curiae* and
Ms. Pooja Dahiya, Advocate.

Mr. Gurminder Singh, Advocate General, Punjab with
Mr. ADS Sukhija, Addl. A.G., Punjab.

Mr. Rajender Prasad, Advocate General, Rajasthan
(through video conferencing).

Mr. Satyapal Jain, Additional Solicitor General of India with
Mr. Arun Gosain, Senior Govt. Counsel for the respondent/UOI.

Mr. Prabodh Kumar, Special Director General of Police,
PSHRC-cum-Head of the SIT. (through video conferencing).

Mr. Gurkirat Kirpal Singh, Principal Secretary Home Affairs and
Justice, Punjab (through video conferencing).

Mr. Gaurav Yadav, DGP, Punjab (through video conferencing).

Mr. Arun Pal Singh, ADGP (Prisons), Punjab
(through video conferencing).

Mr. Dalvinderjit Singh, OSD (through video conferencing).

Mr. Anant Kataria, DAG, Haryana.

Mr. Munish Bansal, Public Prosecutor, UT, Chandigarh and
Mr. Rajiv Vij, Additional Public Prosecutor for UT, Chandigarh.

Mr. Gourave Bhayyia Gilhotra, Advocate,
Mr. Hitesh Verma, Advocate and
Mr. Vishwajeet Singh, Advocate for the applicant
in CM-85-CWPIL-2023.

In pursuance to the directions of this Court issued on 21.12.2023, two FIRs had been registered and the SIT headed by Mr. Prabodh Kumar, Special Director General of Police, Punjab State Human Rights Commission was directed to conduct investigation. The SIT had furnished an interim status report which indicated that while conducting investigation in FIR No.2 dated 06.01.2024, it has transpired that interviewee was in Central Jail, Jaipur when the interview was

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conducted. The SIT had sought further directions from this Court due to the issue of territorial jurisdiction.

This Court on 21.08.2024 had impleaded the State of Rajasthan through Additional Chief Secretary as respondent No.4.

In pursuance to the order dated 06.09.2024, learned Advocate General, Rajasthan has put in appearance through video conferencing and submits that as soon as, they receive the necessary papers, they will take appropriate action in the matter.

Heard.

We are of the considered view that FIR No.2 dated 06.01.2024 shall be transferred to the State of Rajasthan. The Director General of Police, Rajasthan would consider registering the case at an appropriate police station for carrying out further investigation in the matter. Mr. Prabodh Kumar, the SIT Head is directed to hand over the necessary papers to the Director General of Police, Rajasthan.

This Court on 07.08.2024 had passed the following order:-

“We have gone through the status report dated 09.07.2024 filed by the SIT. We appreciate the progress made by the SIT headed by Mr. Prabodh Kumar, Special Director General of Police, PSHRC-cum-Head of the SIT as it has been able to pin point the places where the interviewee was based at the time of the interview.

It is disquieting to note that in the first interview which was conducted on the night intervening 3rd and 4th September, 2022, the interviewee was in the premises of CIA, Kharar while giving the second interview, the interviewee was in the State of Rajasthan.

It is apt to notice that two member committee constituted by the State Government to enquire into the conducting of the interview had submitted a report wherein it was mentioned that it was highly improbable that the interview was conducted either in jail or in the police custody in the State of Punjab. It had taken almost 08 months to arrive at that inconclusive

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finding. If it was an attempt to hoodwink the Court or misdirect the proceedings of the Court, it would be a serious matter and would be considered at an appropriate stage.

We hope and trust that the investigation conducted by the SIT is not confined to the lower level officials and they are not made scapegoat while protecting the higher officers.

We hasten to add that the Punjab Police is one of the best police force in the Country but it needs to be insulated from extraneous influence. The black sheep has to be identified and brought to the book at the earliest.

The Chief Secretary, State of Punjab shall render all possible assistance to the SIT as and when sought.

The interview tends to glorify crime and criminals and there were nearly 12 million views on Youtube which could have had an adverse effect on the impressionable minds. We have said so in the order passed by this Court on 21.12.2023. The operative part of the order is reproduced hereunder:-

“We have gone through the contents of the interviews which indicate that it glorifies crime and criminals. The interviewee is involved in 71 cases in the State of Punjab and had been convicted in 4 cases which includes offences under Unlawful Activities (Prevention) Act, 1967, 302 IPC, extortions etc. The interviewee is justifying target killings and his criminal activities. He has reiterated and justified threat to a film actor. As in a large number of cases wherein he is involved, trials are underway and attempt to projecting his persona as larger than life could influence the witnesses. These interviews are stated to have garnered over 12 million views. It would have an adverse impact upon youngsters with impressionable minds. Punjab is a border State and any deterioration in law and order or increase in crime could affect the national security as at times, anti-national elements take advantage of the situation and often use criminals for their nefarious designs. They often get help from across the border. There is a thin line between extortion, target killings and anti-national activities. The conduct of the interviews is an apparent jail security breach and violation of the Prisons Act. The

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interviews have been telecast for the last 9 months and are available on public domain.”

It is possible that there could have been spurt in crime after the interview was telecast. We, therefore, direct the Director General of Police, Punjab to file an affidavit setting out the number and details of registration of criminal cases especially those relating to extortion/threatening calls, calls for ransom, abduction and intimidation of witnesses in the State of Punjab w.e.f. March, 2023 upto December, 2023 when the interviews were directed to be removed from the website/channel/URL and 09 months prior to the broadcast of the interview.

Mr. Prabodh Kumar, has also filed an affidavit seeking further directions with regard to further course of action to be adopted in pursuance to the second FIR as the interviewee was in the State of Rajasthan when it was conducted.

Learned *Amicus Curiae* submits that she shall be filing an application to implead the State of Rajasthan through its Home Secretary.

Learned counsel for the State of Punjab has also filed the status report in the form of an affidavit of Deputy Inspector General of Prisons, Punjab with regard to the progress made in augmenting the jail security including installation of jammers, CCTV cameras, X-ray body scanners and increase in manpower. The affidavit is also taken on record.

List on 05.09.2024.

A photocopy of this order be placed on the files of connected cases.”

It is manifest that the SIT in its status report submitted to the Court in the sealed cover had stated that the first interview was conducted on the night intervening 3rd and 4th September, 2022 and the interviewee was in the premises of CIA Staff, Kharar.

Learned Advocate General, Punjab, who is present in Court, upon instructions from the competent authority submits that disciplinary action would be initiated against the officers, who were incharge of the CIA Staff as well as the supervisory officers in accordance with law.

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The interview had been conducted at the premises of CIA Staff, Kharar which falls in the jurisdiction of Police District SAS Nagar, Mohali. We hope and trust that action would not be confined to the lower level officials but extend to the higher officers who had supervisory jurisdiction over CIA Staff, Kharar including the then SSP, who was the Head of the District Police when the interview was conducted.

The Principal Secretary, Home Affairs and Justice and the Director General of Police, Punjab are present through video conferencing and they state that they are duty bound to take action against the delinquent officers.

The ADGP, Prisons, who is also present through video conferencing submits that process was initiated towards installing of jammers, AI based CCTV cameras and body worn cameras etc. but the same could not be completed for want of adequate funds.

Learned Advocate General, Punjab assures this Court that the funds would be released within 10 days from now.

This Court by order dated 21.12.2023 had directed the State to augment the calling facility for the inmates of the jail as at times there is desperation on the part of the inmates to speak to their near and dear ones and they may even make efforts to illegally smuggle the mobile phone on that account.

The affidavit had been filed by the ADGP, Prisons, Punjab on 06.03.2024 that tender process has been initiated. In response to the query of this Court, the ADGP, Prisons, Punjab submits that work order has been placed and the entire process would be tested and fully operational by December, 2024. He also submits that clearance from the Government of India would be required which would take some time.

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It is made clear that no further extension shall be granted to the State for implementation of the directions in terms of the timeline set out by the State.

The ADGP, Prisons, Punjab shall also file an affidavit with regard to the progress towards installation of jammers, AI based CCTV cameras, body worn cameras and other measures to augment the jail security.

Learned Additional Solicitor General of India had assured this Court on 10.01.2024 that as and when proposal from the State Government is received, the necessary clearance would be given by the Govt. of India in the shortest possible time.

List on 24.09.2024.

A photocopy of this order be placed on the file of connected case.

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

September 12, 2024

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