

RAJBIR **VS STATE OF HARYANA AND OTHERS**

Present: Mr. R.S. Cheema, Sr. Advocate with
Mr. Arshdeep Singh Cheema, Advocate,
Mr. Harinder Deep Singh Bains, Advocate,
Mr. Manvendra Singh, Advocate and
Mr. Manraj Singh, Advocate for the petitioner

Mr. Deepak Sabherwal, Addl. AG, Haryana.

Ms. Shubra Singh, Advocate for respondent No.5-CBI.

The matter is taken up for hearing through video conference due to COVID-19 situation.

This petition under Section 482 Cr.P.C. was filed for issuance of direction to transfer the investigation of case (i) FIR No. 25, dated 12th January, 2021, under Sections 148, 149, 332, 353, 186, 384, 379-B and 307 of the Indian Penal Code, 1860 registered at Police Station Kundli, District Sonipat; (ii) FIR No. 26, dated 12th January, 2021, under Sections 148, 149, 323, 384, 452 and 506 of the Indian Penal Code, 1860 registered at Police Station Kundli, District Sonipat and (iii) FIR No. 649, dated 28th December, 2020, under Sections 148, 149, 323, 384, 452 and 506 of the Indian Penal Code, 1860 registered at Police Station Kundli, District Sonipat, to an independent agency. Further, direction was sought for an independent inquiry into the illegal detention and torture of the son of the petitioner namely Shiv Kumar. Prayer was also for getting Shiv Kumar medically examined.

Notice of motion was issued on 19th February, 2021. This Court directed Medical Superintendent, Government Medical College and Hospital, Sector 32, Chandigarh to get Shiv Kumar medically examined.

On 24th February, 2021, a report dated 22nd February, 2021 was produced along-with the reply by way of an affidavit of Satvinder Kumar, Superintendent, District Jail, Sonipat. The State was directed to produce the medical examination report of Shiv Kumar done as per Section 54 Cr. P.C.

Today, MLRs four in numbers have been produced along-with the status report dated 27th February, 2021, these are taken on record.

Learned Senior counsel appearing for the petitioner submits that the comparison of the initial MLR and the subsequent MLR report dated 22nd February, 2021 speaks for itself. A request is made that an inquiry be ordered and in the meantime the investigation be stayed.

Learned State counsel submits that the State was not in a position to raise any serious objections, if an inquiry is ordered to be conducted. He apprises the Court that the investigation of the FIRs was handed over to the Special Investigation Team (SIT).

No comment is made on comparison of two sets of medical reports, lest it would affect any further proceedings or inquiry, it would be suffice for this Court to say that a probe is required.

Part-III of Constitution of India, deals with Fundamental Rights. Article 21 guarantees protection to life and personal liberty. Life and liberty of no person can be deprived except as per the procedure established by law. In a democratic set up, there cannot be even a thought for compromising the life and liberty of the citizen.

At this stage, there is nothing before this Court to doubt the investigation being carried out by the SIT. However, as there could be an occasion that the conclusion arrived at by the SIT and inquiry report with regard to two sets of medical reports may cast shadow on each other.

Considering the facts and circumstances in entirety, let the District and Sessions Judge presently posted at Faridabad hold an inquiry with regard to the allegations of illegal detention and custodial torture of Shiv Kumar.

It is expected that all the concerned parties will lend their full cooperation to the Sessions Judge, so that inquiry report is submitted at the earliest.

In the meantime, SIT may continue with the investigation but shall not submit its final report without seeking permission from this Court.

Put up on 11th May, 2021, for submission of status report.

16th MARCH, 2021
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(AVNEESH JHINGAN)
JUDGE