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High Court Of Punjab And Haryana At Chandigarh

Case No: Writ Petition No. 7470 of 2012

Janki Prasad Tiwari APPELLANT

Vs

State RESPONDENT

Date of Decision: Aug. 16, 2012

Hon'ble Judges: Rajendra Menon, J

Bench: Single Bench

Advocate: D.K. Dixit, for the Appellant; Rajesh Tiwari, Learned Govt. Advocate, for the Respondent

Final Decision: Dismissed

Judgement

Rajendra Menon, Judge

1. Petitioner was working as a Constable in Police Chowki, Barka, District Singrauli. Challenging the departmental enquiry initiated against the petitioner vide charge sheet Annexure P/6 dated 16.12.2011, petitioner has filed this writ petition. It is a case of the petitioner that the departmental proceedings have been initiated against the petitioner due to malafides of Superintendent of Police, Singrauli who has transferred the petitioner on more than 12 occasions and as the petitioner has filed writ petitions challenging the transfer orders and as the transfer order was stayed, the Superintendent of Police was personally annoyed with the petitioner and therefore, to victimize the petitioner not only he has been suspended but the charge sheet in question has been issued. Inter alia contending that the allegations against the petitioner with regard to taking Rs.35,000/-Rupees from the complainant Shri Ramniwas Vaishya for exonerating his brothers from a criminal case was enquired into by the SDOP and a report Annexure P/4 was submitted by which petitioner has been exonerated. Inspite thereof proceedings into the charge sheet is malafidely continued, the entire action is challenged and the prayer made is that the charge sheet be quashed.

2. Shri D. K. Dixit, learned counsel for the petitioner took me through the allegations leveled in the charge sheet, report submitted by the SDOP as contained in Annexure P/4

and other material available on record to emphasize that allegations leveled against the petitioner in the charge sheet is not correct. Due to malafides of the Superintendent of Police the petitioner is being suspended and contending that the charge sheet has been issued on improper consideration, petitioner wants interference into the matter. Inter alia contending that a Assistant Sub Inspector and the SDOP have conducted an enquiry and has found that the allegations leveled against the petitioner in the complaint submitted by Shri Ramniwas Vaishya are not correct, inspite thereof proceeding with the enquiry is not called for, Shri Dixit seeks for interference into the matter.

3. Shri Rajesh Tiwari, learned Government Advocate appearing for the respondents refutes the aforesaid and points out that after the report was submitted with regard to enquiry conducted by Assistant Sub Inspector and the SDOP again representations were received by the Superintendent of Police from the complainant and therefore, Superintendent of Police thought it appropriate to refer the entire matter to a Senior Officer namely, the Additional Superintendent of Police, Singrauli and the Additional Superintendent of Police, Singrauli conducted a detailed enquiry into the matter and submitted a report Annexure R/3. The Assistant Superintendent of Police in the enquiry has examined various witnesses and prima facie it was found that for not registering the case against the brothers of the complainant Shri Ramniwas Vaishya, petitioner and others have taken some money and therefore, the impugned action is taken. Shri Rajesh Tiwari, therefore, submits that as departmental enquiry initiated is on the basis of prima facie case established in the enquiry conducted by Additional Superintendent of Police, in his report Annexure R/3 no case is made out for interference now as there are conflicting report in the matter which shows there is some dispute which requires inquiry. Accordingly, Shri Rajesh Tiwari, learned counsel for the respondents, submits that action is unsustainable.

4. As far as malafides with regard to transfer is concerned, Shri Rajesh Tiwari points out that malafide are alleged against the Superintendent of Police in transferring the petitioner on 12 occasions but on each of the occasion the Inspector General of Police has canceled the order of transfer and in the present case, representation submitted by the petitioner was rejected by the Inspector General of Police vide Annexure R/5 and therefore, it is stated that no illegality in the matter has been committed. Shri Rajesh Tiwari submits that out of 12 alleged transfer orders 10 orders were passed by the then Superintendent of Police, Singrauli who is no more holding the said post, he has been transferred and the charge sheet has been issued by another Superintendent of Police in whose tenure two transfer orders that too, from one police station to another has been passed. Shri Rajesh Tiwari submits that in the present case only a vague allegation of malafide is made which has not been substantiated by any material, therefore, no interference into the matter is called for.

5. I have heard learned counsel for the parties and perused the record. On a perusal of record it is seen that there are serious allegations against the petitioner with regard to taking a sum of Rs.35,000/-from the complainant for falsely implicating complainant''s

brother in a criminal case and after taking money exonerating the persons and closing the complaint. Record indicates that similar complaints were received in earlier occasion also and therefore, the Superintendent of Police thought it appropriate to conduct an enquiry vide Annexure P/3 and P/4 petitioner was exonerated and the allegations were not found to be correct but on a detailed enquiry again conducted by the Additional Superintendent of Police as is evident from Annexure R/3 charges are found to be correct and the report of Additional Superintendent of Police is based on evidence collected after examination of witnesses. That being so, three reports conflicting in nature are there and as there are serious allegations of taking money for exonerating the accused persons initially by falsely implicating them, it is not appropriate for this Court to enter into the merits of the matter and exonerate the petitioner. Respondents have already directed for a detailed enquiry and Inspector General of Police has directed to conclude the enquiry at an earlier date. That being so, in the absence of any statutory provisions being shown to be violated, merely on the basis of conflicting report, this Court does not deem it appropriate to exonerate the petitioner at this stage when a proper departmental enquiry is pending, the petitioner should face the departmental enquiry and get himself exonerated.

6. As far as allegations of malafide are concerned, except for making wild and vague contentions with regard to malafides of the Superintendent of Police, no concrete evidence or cogent material is adduced to substantiate the aforesaid contention. That apart the Superintendent of Police who had transferred the petitioner on more than 10 occasions has not initiated the action. The action is initiated by the subsequent officer and merely on the basis of such vague allegation of malafide interference into the matter is not called for. There are serious allegations against the petitioner in the discharge of his duties and a enquiry into the same is pending. Accordingly, finding no ground for interference, this petition is dismissed.