

**Harjit Singh Vs. State and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/692156](http://sooperkanoon.com/692156)

**Court :** Delhi

**Decided On :** Jul-12-1990

**Reported in :** 42(1990)DLT224; 1990(19)DRJ136

**Judge :** M.K. Chawla and; Mahesh Chandra, JJ.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 307, 323 and 506

**Appeal No. :** Criminal Writ Appeal No. 669 of 1989

**Appellant :** Harjit Singh

**Respondent :** State and ors.

**Advocate for Def. :** Mr. Sodhi

**Advocate for Pet/Ap. :** B.S.C. Singh and; R.P. Lao, Advs

**Judgement :**

**M.K. Chawla, J.**

(1) Rule D B.

(2) The present, petition of Harjit Singh is for issuance of an appropriate writ of certiorari for quashing the order of Deputy Commissioner of Police (East) ordering the registration of the petitioner as a bad character bundle 'B', under the Punjab Police Rules, applicable to Delhi, and for a writ of mandamus commanding the

respondents no. 2 and 3 not to interfere with the right of the petitioner to carry on his business and not to call him at the Police Station at odd hours.

(3) The case of the petitioner is that he is residing with his brothers in Gandhi Nagar and is engaged in the business of readymade garments in the name and style of Kuki dresses. He is actively associated with the social activities of the area for the last many years. He is assessed to income-tax and was issued a gun license on the recommendation of the area police in the year 1984. He is also holding a passport.

(4) His case is that on account of his social activities, he incurred the wrath of the persons of bad character of the area, as a result of which, he was involved in a number of false cases by the local police. He was acquitted in all the cases but the S.H.O. of the Police Station Gandhi Nagar without any valid reasons, opened the history sheet of the petitioner on 15-7-1984. Even thereafter, the S.H.O. of Police Station of Gandhi Nagar involved him in a case under Section 307/506/323/34 Indian Penal Code against which, he made a representation to the Commissioner of Police who, in turn, directed the Vigilance Officer to hold an enquiry. The D.C.P. (Vigilance) in his report concluded that the said case is doubtful and the F.I.R, appears to have been fabricated. He recommended number of follow-up actions, as a result of which, the Sub-Inspector and the S H.O of the said Police Station were transferred. On the basis of these grounds, the submission of the learned counsel for the petitioner is that it is a fit case where the opening of the history sheet of the petitioner be quashed.

(5) The case of the respondent as disclosed in the affidavit of Ashutosh Chatterjee, S.H.O. Police Station defense Colony is that the petitioner previously used to reside within the territorial jurisdiction of Police Station Gandhi Nagar but later on shifted his residence to the jurisdiction of Police Station defense Colony, New Delhi. The Assistant Commissioner of Police Gandhi Nagar made a recommendation that the name of the petitioner be entered in Register no 10 Part II, as the petitioner is a very desperate person who had been involved in the cases of murder, attempt to murder, assault and intimidation and needs discreet surveillance.

(6) During the course of pendency of the petition, this Court in its order dated 29-11-1989 observed as under :-

'IT seems that on the respondents' own showing, the Deputy Commissioner of Police did not apply his own mind while directing the petitioners name to be put on the surveillance register. On this ground alone, the action of the respondents in bringing the name of Harjit Singh the petitioner herein, on the said register is to be held to be bad. However, Mr. Bawa submits that the opening of the history sheet as well as its continuous operation is also to be quashed. On this aspect, Mr. Sodhi, learned counsel for the respondents, keeping in view the nature of the offence . in which the petitioner was involved but acquitted, submits that he would recommend to the Administration to stop the operation of the history sheet and transfer the same to the personal file of the petitioner.'

(7) In spite of repeated adjournments and reminders to the Administration, no action appears to have been taken. Today, Mr. Lao submits that in spite of his best efforts, no responsible officer has come to instruct him.

(8) After hearing learned counsel for the parties, we are of the opinion that it is a fit case in which the order opening of the history sheet should be quashed. It is not disputed that the petitioner was involved or falsely implicated in as many as 8 cases all relating to Police Station Gandhi Nagar He was acquitted in all the cases except the last one under Section 307/507/324/34 Indian Penal Code which is pending trial. Even in this, the false implication of the petitioner prima facie stands proved from the discreet enquiries of the D.C.P (Vigilance).

(9) It is well settled that under the Police Rules, no entry in the surveillance register can be made or a history sheet be opened except by the detailed order of the Superintendent (DCP) and that too, in writing, giving definite reasons for doing so. In this case, as per the respondent' own record, (he history sheet was not opened by the Deputy Commissioner of Police but by the S.H.O Police Station Gandhi Nagar. In fact, the Deputy Commissioner of Police (East) only approved the recommendation made by the Assistant Commissioner to Police Station Gandhi Nagar to keep the petitioner under surveillance and to enter his name in Bundle 'A'. This is not the requirement of law, where the mere approval of the

recommendation of the S.H.O can be said to be a legal one.

(10) On this short ground, we allow the petition and direct the respondents to remove the name of the petitioner from the Surveillance Register and to close the history sheet of the petitioner and transfer his name to his personal file.

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