

**Surinder Kaur and anr. Vs. Union of Inida (Uoi) and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/706968](http://sooperkanoon.com/706968)

**Court :** Delhi

**Decided On :** Sep-29-2005

**Reported in :** 124(2005)DLT334; 2005(84)DRJ387

**Judge :** R.S. Sodhi, J.

**Acts :** Code of Criminal Procedure (CrPC) - Sections 82

**Appeal No. :** Writ Petition (Criminal) 1288-89/2005

**Appellant :** Surinder Kaur and anr.

**Respondent :** Union of Inida (Uoi) and ors.

**Advocate for Def. :** R.M. Tewari, Adv. for R-1, ; Mukta Gupta, Adv. for R-2., ;

**Advocate for Pet/Ap. :** P.N. Lekhi, Sr. Adv.,; Ravinder Kumar and; Samar Bansal

**Judgement :**

**R.S. Sodhi, J.**

CRL.M.A.9783/2005:

1. This application has been moved for impleading Gurbax Singh @ Buchi, Yudhvir Singh, Pritpal Singh & Daljit Singh Chaggar as parties to this petition. Application is allowed and disposed of.

W.P.(CRL) 1288-89/2005 & CRL.M.A.7968 and 9782/2005:

2. W.P.(Crl.) 1288-89/2005 have been filed with a prayer to quash F.I.R. No. 370/2005 dated 30.07.2005 and also to direct investigation by Central Bureau of Investigation in complaint of the incident which took place outside the property, B-15 B, Mansarovar Garden on 30.07.2005. The petition also prays for compensation on account of harassment, humiliation pain and injuries caused to the petitioner and his family members. The petition also prays for adequate security to the petitioner and members of his family.

3. The allegations made in the writ petitions were that on 30.07.2005 a police party of the Special Cell barged into the house of the petitioner, assaulted the petitioner and members of his family, caused damage to property and thereafter harassed and threatened the petitioner with dire consequences.

4. This complaint of the petitioner was directed to be looked into by the Joint Commissioner (Vigilance) who was required to inquire into the complaint made by Gurbax Singh dated 12.07.2005 and also look into the incident reported in F.I.R. 370/2005.

5. A report has been filed by the Joint Commissioner of Police, (Vigilance), Delhi. The veracity of this report has been challenged by learned Sr.Counsel, Mr. P.N.Lekhi, who submits that the report is not in accordance with the order of this court and also does not explain as to how Mr. Rajbir Singh (ACP, Special Cell, New Delhi) could have jurisdiction to entertain the complaint of Vijender Sethi of extortion and threat to life and send his team to inquire into the same in Mansarovar Garden, West Delhi. He also contends that since he has not been provided with Annexure I and II stated to have been annexed with the report he is handicapped in examining the veracity of those witnesses.

6. Counsel further submits that Rajbir Singh, ACP has gone out of his way to inquire into the complaint over which he had no jurisdiction and that while doing so has caused hurt to the petitioner and members of this family, has vandalized their property by breaking into their house.

7. Counsel for the State, on the other hand, contends that the inquiry report is as per the orders of this court and the complaint of Gurbax Singh has been inquired into together with the incident that is reported in F.I.R. No. 370/2005. The report according to counsel categorically states that ACP Rajbir Singh was in a position to accept and inquire into the complaint marked to him being a senior officer of the Special Branch which had jurisdiction over the entire State/Union Territory of Delhi.

8. Counsel submits that the complaint of Mr. Vijender Sethi was marked to the DCP, Special Cell who thereafter marked it to ACP, Special Cell, who further marked it to Inspector Lalit Mohan. In other words, ACP Rajbir Singh was involved only when the police party was beaten up and he received a call to this effect from Mrs. Sethi.

9. Counsel submits that there is nothing on record to show that the police party used fire arms and/or force and/or caused injury to any of the complainants. She submits that the CD which has been given to the police has also been taken into consideration and found to be tampered/doctored. Counsel submits that no cognizable offence is made out on the complaint of the petitioner herein and, therefore, no F.I.R. has been registered.

10. Mr. Lekhi, points out that it is incorrect on the part of counsel for the State to suggest that the complaint of Vijender Sethi was made, in the first instance, to Joint Commissioner of Police, Special Cell when the report itself shows that the complaint was made to DCP, Special Cell.

11. I have heard counsel for the parties and with their assistance have gone through the material placed before me. It appears to me that a complaint was made to the Special Cell, which according to the inquiry report is made to Joint Commissioner of Police while in the same report there is a mention of the complaint having been made to the DCP, Special Cell. It is on this complaint that the police machinery was put into action. Inspector Lalit Mohan, along with the other officers went to the spot for inspection. It was here that he was met with resistance by the husband of petitioner No. 1, Gurbax Singh @ Buchi and their sons.

12. The aforesaid findings are part of the report submitted to this court. It is also clear from the report that no one other than the police-men were injured. It further appears from the report that, ACP Rajbir Singh was not present in the first instance when the attack took place on the police party but came subsequently, on being informed of the incident by Mrs. Meet Sethi.

13. The allegations sought to be made in the writ petition qua the incident, namely, that the police party had brutalized the petitioner and members of his family as also vandalized the property by breaking into his house is not borne out from the report. There is nothing on record other than a bare statement of the petitioner to this extent. There is no medical evidence to support the case of the petitioner.

14. In the totality of these circumstances, I am of the view that no cognizable offence has been made out which called for an F.I.R. to be registered on the complaint made by the petitioner. I am satisfied with the vigilance inquiry report submitted to this court.

15. It is contended by counsel for the petitioner, Mr. Lekhi that Gurbax Singh @ Buchi, Yudhvir Singh, Pritpal Singh & Daljit Singh Chaggar have been declared proclaimed offenders and even though they are the aggrieved party, they think, their life is in danger if they appear before the Investigating Officer without protection. He submits that even their going to court to surrender opens them to great risk.

16. Counsel for the State informs me that proceedings under Section 82 Cr.P.C. are in progress and that these imp leded petitioners have not been declared proclaimed offenders as yet.

17. Be that as it may, in view of the desire of the petitioners to make themselves available to the court, although it may not be appropriate for this court to interfere in the proceedings at this stage, however, I am of the view that in the interest of justice the imp leded petitioners, if they should so desire may present themselves before the Magistrate, Shri Anil Kumar Sisodia, Learned Metropolitan Magistrate, Tis Hazari on 1st October, 2005 on or before 11.00 a.m.

18. The prayer for quashing of F.I.R. 370/2005 is dismissed. The inquiry report is being retained.

19. WRIT PETITION (CRIMINAL) 1288-89/2005, CRL.M.A.Nos. 7968/2005, 9782/2005 are disposed of.

20. A copy of this order be given dusty to counsel for the parties under the signature of Court Master.

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