

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

Present: Ms. Tanu Bedi, Advocate as Amicus Curiae and
Mr. Sumeet, Advocate

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

Mr. Gurminder Singh, Advocate General, Punjab with
Mr. H.S. Sullar, Senior DAG, Punjab and
Mr. ADS Sukhija, Addl. AG, Punjab.

Mr. Anant Kataria, DAG, Haryana.

Mr. Manish Bansal, Public Prosecutor, UT, Chandigarh and
Mr. Rajiv Vij, Addl. PP, UT, Chandigarh.

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

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

Mr. Gourave Bhayya Gilhotra, Advocate
Mr. Vikramjeet Singh Advocate for applicant in
CM-85-CWPIL-2023.

Mr. Harsh Manocha, Advocate

Ms. Mandeep Kaur Gill, Advocate for
Mr. C.S. Rana, Advocate in CRWP-5405-2024.

The Advocate General, Punjab has filed the affidavit dated 27.10.2024 of Assistant Inspector General of Police wherein it is stated that 7 Punjab police officers/officials have been placed under suspension and departmental proceedings have been initiated against the 8 officers. Inspector Shiv Kumar, the then Incharge, CIA Kharar who had been given extension in services has been terminated by the order dated 25.10.2024.

It appears that beside two gazetted officers who have been placed under suspension, the other officers include officers of the rank of HC, ASI, Sub

Inspectors. This Court, by order dated 07.08.2024 had specifically directed that action should be taken against the senior officers who had facilitated the interview and the lower level officers should not be made scapegoats. No action appears to have been taken against the senior officers of the District. By order dated 24.09.2024, we had also directed the State to inform us by filing an affidavit of the competent authority as to why the interviewee had been kept in the premises of CIA Staff Kharar for a long period of time, and whether the repeated remands to keep the interviewee there was a deliberate attempt to keep him at the same station for extraneous reasons or whether he was generally required for investigation. Explanation was also sought for as to why Shiv Kumar, the then Incharge CIA was given extension and posted there. The affidavit addressing the aforesaid concern of the Court has not been filed till date. We, therefore, direct the Director General of Police, Punjab to file an affidavit in this regard. Earlier it came to the notice of this Court that the Director General of Police had made a statement in a press conference that the interview had not taken place in any jail in the State of Punjab. The fact that the interview had been conducted within the premises of CIA staff Kharar, District SAS Nagar makes it even worse as it appears to have been conducted in connivance with the police officers. Therefore, we direct the DGP, Punjab to disclose on affidavit the basis of such statement made during press conference.

Learned Amicus Curiae submits that although this Court by the order dated 21.12.2023 had directed the interview to be taken off from all social media platforms by blocking/removing all URL links but it has again resurfaced on some websites/social media handles.

This Court by order dated 21.12.2023 had directed the removal of the interview. The relevant extract of the order is reproduced hereunder:-

“Xxxxxx

While hearing the matter, it had also come to our notice that a known criminal, namely, Lawrence Bishnoi, who is also a suspect in the murder case of a renowned singer Shubhdeep Singh Sidhu Moosewala, had been interviewed by a News channel and the interviews had been telecast in March, 2023. Lawrence Bishnoi was stated to be in the custody of the Punjab police or judicial custody in the State of Punjab at that time. We were informed that the interviewee was in Bathinda jail when the interview was telecast but the place and time the interview was conducted was not known. A two member High-Powered Committee comprising of Director General, STF and ADGP, Prisons had been constituted in March 2023 to enquire into the incident as it had been viewed seriously by the authorities. The report of the Committee had been placed before us in a sealed cover and a copy of the report was also furnished to the learned amicus curiae. Learned amicus curiae submits that there are several aspects which have not been looked into by the Committee and if the matter is properly investigated or re-examined, the exact time and location of the place where the interviewee was situated when the interviews were conducted can be pinpointed. She also submits that after registration of FIR, these aspects can be looked into by the Special Investigation Team. She stated that the telecast of the interviews is having an adverse impact on youngsters who are getting swayed and it creates wrong impression on the young impressionable minds as the interviews glorifies the criminal life and activities and the interviewee has justified taking law in his own hands for settling personal scores. In fact, a prisoner facing so many criminal cases had access to technology while being in custody and then through that technology has justified his criminal acts as desire of God/destiny. The interviews have been viewed by over 12 million viewers. The amicus curiae further submits that after the telecast of interviews, many more young persons have started writing threatening letters

to the film actor targeted in the interview of Lawrence Bishnoi. She further submits that although the fundamental right to speech and expression is important, but this right is subject to reasonable restrictions which include public order, decency, morality and incitement to offence. The telecast of the interviews is adversely affecting public order and harmony.

We have also gone through the report which indicates that the Committee has come to the conclusion that it is highly improbable that interviews had taken place either in judicial custody or in the police custody in the State of Punjab. It is apparent that the Committee has not reached a definite conclusion that the interviews were not being conducted in a jail or police custody within the State of Punjab. They have recorded the statements of large number of witnesses in this regard.

We find it strange that the Committee took over 8 months to arrive at an inconclusive finding. Nonetheless, the Committee has made a recommendation for registration of two FIRs with regard to two interviews which were conducted in violation of the law. The Committee has recommended that the government may consider registration of two separate FIRs (one each for the respective interview) at a police station having statewide jurisdiction to investigate the matter and take on record relevant evidence/data exercising the powers available under Cr.P.C. If during the course of investigation, the offence(s) relating to any of the two cases or both of them is/are found to have occurred outside the State, the concerned case(s) may be transferred to police station(s) of appropriate jurisdiction. Further, the Committee has also made a recommendation to the Government to remove the URL of the video from the public domain.

The ADGP, Prisons, Punjab submits that they recommended registration of FIR as after registration of FIR the matter can be investigated with the procedure prescribed

under the Cr.P.C. for summoning the witnesses to record their statements etc. Learned State counsel submits that the report is being considered by the Government and appropriate action would be taken. She also submits that Lawrence Bishnoi 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 State itself appears to have taken up the matter with some seriousness as a High-Powered Committee was set up by the State. In the backdrop of the gravity of the situation where a suspect, who is involved in a large number of serious criminal cases, is allowed to conduct an interview in police/judicial custody and it has taken the Committee over eight months to submit an inconclusive report, we, while directing the registration of the FIR would like the matter to be investigated by a Special Investigation Team. Those, who facilitated the interviews need to be brought to book at the earliest. We deem it appropriate to constitute a Special Investigation Team headed by Mr. Prabodh Kumar, D.G., Human Rights Commission, the other members of the Team would be Dr. S. Rahul, IPS and Ms. Nilambari Vijay Jagadale, DIG, Cyber Crime.

It is true that freedom of speech and expression has been enshrined in Article 19 (1) (a) of the Constitution of India. This freedom also includes a free and fair press which is an important pillar of a democracy governed by rule of law. However, this freedom is not absolute and is subject to reasonable restrictions as provided under Article 19(2) of the Constitution of India, which include security of State, public order and would not permit incitement to an offence.

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

xxxxX”

(c) In case the said interviews are discovered by police authorities to be existing on any social medial platform in future, the same be get removed with immediate effect;

(e) To direct the search engines Google Search, Yahoo Search, Microsoft Bing to globally de-index and de-reference from their search results the afore-said interviews and their related contents as identified by its web URL and image URL.

xxxxxxX”

Learned Advocate General assures this Court that necessary steps shall be taken to remove the interview from all the social media platforms located globally and in compliance to the order and appropriate action shall be taken against those who have facilitated the uploading and forwarding of the banned content. Further, we direct that there should be periodic check and if

interviews banned vide order dated 21.12.2023 are found to have resurfaced then they be removed immediately without any further orders of this Court.

This Court had constituted the SIT headed by Mr. Prabodh Kumar, Special DGP, Punjab State Human Rights Commission to conduct investigation in FIR No.2 dated 06.01.2024 registered under Sections 384, 201, 202, 506, 116, 120-B IPC and 52A of Prisons Act. The SIT had been able to pinpoint that the interview had taken place within the premises of CIA staff Kharar on the basis of assessment of electronic evidence and had also been able to pinpoint the misconduct & negligence of the officers. However, cancellation report had been filed before the JMIC wherein it was mentioned that besides offence under Section 506 IPC, the aforementioned offences under which the FIR had been registered were not made out.

It is important to note that the SIT has been able to establish that the interview had taken place within the premises of the CIA staff Kharar in the presence of senior officers of the Punjab Police. The office of the Officer Incharge of the Police Station was used as a studio to conduct the interview. The official Wi-Fi at the premises of the CIA staff had been provided for conducting the interview which is a pointer towards the criminal conspiracy. The report indicates that roznamcha was also forged and fabricated. The matter calls for further investigation as to for what consideration this was done and the various aspects towards offences under the Prevention of Corruption Act besides other offences need to be examined.

Therefore, the report under Section 173 Cr.P.C. raises a suspicion of nexus and conspiracy between the police officers and the criminal. The police officers allowed the criminal to use electronic device and provided a studio like facility to conduct the interview which tends to glorify crime with the potential

to facilitate other crimes including extortion by the criminal and his associates. Involvement of the police officers may suggest receipt of illegal gratification from the criminal or his associates and constitute offences under Prevention of Corruption Act. Therefore, the case requires further investigation.

Learned Advocate General, Punjab submits that it is indeed a serious matter and further investigation needs to be carried out towards unearthing the criminal conspiracy, abetment, corruption etc.

Mr. Prabodh Kumar, Special DGP, Punjab State Human Rights Commission, who is virtually present in Court submits that the SIT earlier did not have the mandate to look into the other offences including those under the Prevention of Corruption Act and the investigation was not carried out regarding those aspects as the SIT did not deem it appropriate to conduct a fishing and roving enquiry. We direct that a new SIT headed by Mr. Prabodh Kumar and also comprising of Mr. Nageshwar Rao, ADGP, Provisioning and Mr. Nilabh Kishore, ADGP, STF to carry out further investigation towards criminal conspiracy, abetment, forgery, offences under Prevention of Corruption Act, Information Technology Act and also under any other offence. The SIT shall file a status report within a period of 6 weeks.

The learned Advocate General, Punjab submits that he shall be filing an affidavit with the Registry with regard to augmentation of jail security.

At this juncture, learned Amicus Curiae has also informed the Court that an application has been received from the inmate of District Jail Nabha namely Ravinder Singh @ Lali Maur son of Baldev Singh that he is a law student and wants to apprise this Court of various issues concerning the jail. He

may address this Court on the next date of hearing through video conferencing.
The Superintendent, District Jail, Nabha shall provide video conferencing facilities to enable the applicant to address the Court.

List on 19.11.2024.

Photocopy of this order be placed in the connected file(s).

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

28.10.2024
SwarnjitS