

2026:PHHC:112425



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

136

CRM M-12236 of 2012

Date of Decision: 13.08.2026

Bhupinder Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. H.K. Brinda, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

Mr. Sheesh Pal Singh, Advocate
for respondents No. 4 to 10 and 12 to 13.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the order dated 05.09.2005 (Annexure P-8), passed by the Court of Sub-Divisional Magistrate, Anandpur Sahib, whereby the petitioner has been declared as proclaimed offender. Apart from that, a further prayer has been made to quash the impugned complaint No. 74 dated 22.07.2002 (Annexure P-2), titled as "***Prem Singh versus Mukinder Singh and others***", which was pending in the Court of Judicial Magistrate 1st Class,

Anandpur Sahib, as well as the summoning order dated 11.09.2003 (Annexure P-3) passed by the Court of Judicial Magistrate 1st Class, Anandpur Sahib, whereby, the petitioner has been ordered to summon to face trial under Section 323, 326, 148, and 149 of IPC.

2. Learned counsel for the petitioner has vehemently argued that in the month of December 2001, the petitioner had come to see his old parents and other relatives. The alleged occurrence had taken place on 28.12.2001, and one FIR No. 66 dated 28.12.2001 under Sections 323, 324, 325, 326, 148 and 149 of IPC, Police Station Nurpur Bedi was ordered to be registered against respondent No. 2 and other persons. As a counterblast to the same, the respondent No. 2 filed a complaint (Annexure P-2), in the Court of SDJM, Anandpur Sahib after about seven months of registration of the FIR against him. Vide the order dated 11.09.2003 (Annexure P-3), the petitioner and other accused were ordered to be summoned by the trial Court. Learned counsel further submits that the petitioner had already returned to America on 21.01.2002, i.e., six months prior to filing of the instant complaint, and this fact was within the knowledge of respondent No. 2. Even respondent No. 2 was well aware of the address of the petitioner in USA. However, no efforts were made to effect service on the petitioner at his correct address in America. Even the warrants of arrest were issued against the petitioner and others were returned with the report that the petitioner was residing in

America since 1991. However, the trial Court, instead of directing the respondent No.2 to supply the correct address of the petitioner, started the proclamation proceedings under Section 82 Cr.P.C. and vide the impugned order dated 05.09.2005, the petitioner was declared as proclaimed offender illegally. Learned counsel further submits that the complaint (Annexure P-2) was tried by the trial Court and vide order dated 16.02.2012 (Annexure P-9), all the co-accused of the petitioner were ordered to be acquitted by the trial Court and the entire prosecution version was found to be highly suspicious and not sufficient to connect the accused with any offence. Learned counsel further submits that even otherwise the version of the side of the petitioner was found to be correct and ultimately respondent No. 2, complainant, and seven others were also ordered to be convicted by the Court of SDJM, Anandpur Sahib, under Sections 323, 324 and 325 of IPC, vide judgment dated 16.02.2012. Thus, it is apparent that the version of the petitioner side was found to be correct, whereas the version of the complainant side was completely disbelieved by the trial Court.

3. On the other hand, there was no representation on behalf of respondent No. 2 in the present case for the last several dates. Learned State counsel submits that a complaint in case FIR No. 66 of 2000 was presented against respondent No. 2 and seven others and on culmination of the trial of the said case, respondent No. 2 and seven

others have already been acquitted by the Court of SDJM, Anandpur Sahib, vide judgment dated 16.02.2012.

4. I have heard learned counsel for the parties and perused the record carefully.

5. In the present case, as per the averments made in the petition, the petitioner was residing in America much prior to the filing of the impugned complaint (Annexure P-2). As per Section 82 Cr.P.C., proclamation can be issued against a person if the Court has reasons to believe that a person against whom a warrant has been issued has absconded or is concealing himself and that warrant cannot be executed. In the present case, the petitioner had already gone to America on 21.01.2002, whereas the complaint in question was filed by respondent No. 2 on 22.07.2002. Even the complainant/respondent No. 2 was well aware of the fact that he was residing in America. Still, he did not supply the correct address of the petitioner. Apart from that, even there is no evidence on record to show that the petitioner was ever attempted to be served in America and there was no material on record that the petitioner had left the country after institution of the impugned complaint with the view to abscond or conceal himself. Rather, the police had also found that the petitioner was residing in America since 1991 and had left India six months prior to the institution of the present complaint. Thus, the petitioner

was declared as proclaimed offender wrongly in complete violation of Section 82 Cr.P.C. Apart from that, the co-accused of the petitioner were tried by the Court of SDJM, Anandpur Sahib, and were ordered to be acquitted by making the following observations:-

“27.Keeping in view above detailed discussion, I find that the present complaint is an attempt to create defense and to put pressure on accused in State case. The complainant and witnesses have failed to connect any accused with any offence. Hon'ble Supreme Court has held in 'Bipan Kumar Mandal V/s State of West Bengal' 2010(3) Apex Court Judgments 210 that "It is the quality and not the quantity of evidence which matters. It is the value, weight and quality of evidence which matters, rather than quantity, multiplicity or plurality of witnesses. Court can convict an accused on the sole testimony of a witness and it may acquit the accused in spite of testimony of several witnesses, if it is not satisfied about the quality of evidence. But in this complaint, there is neither quality not quantity of evidence.

28.The complainant is bound to prove guilt of the accused by leading cogent, reliable and trustworthy evidence. Guilt can not be presumed, it has to be proved. The statements of complainant and his witnesses except medical witness have created doubts in version of complainant and are not sufficient to connect the accused with any offence. It is settled principle of

criminal jurisprudence that benefit of doubt always goes to the accused.

29.The complainant has failed to discharge his onus. Hence, there is no option except to acquit all the appearing accused. Accordingly , all the appearing accused are acquitted of offence punishable under Sections 326, 323, 148 and 149 of IPC by giving the benefit of doubt.

6. From the above, it is apparent that the respondent No. 2 could not lead any evidence before the trial Court to prove the involvement of any of the accused before the Court. Moreover, the entire prosecution case was disbelieved. It is also not in dispute that evidence to be conducted/adduced by the prosecution against the present petitioner and other accused was also to be same. The prosecution has to adduce evidence once again against the petitioner, which has already been led in case of other accused. Apart from that, it is not even the case of the respondent No. 2 that there is any other material against the petitioner besides what was produced during the trial against the other accused. Thus, in case, the prosecution is allowed to proceed, it would be unnecessarily result in wastage of time. This Court has held in the matter of ***Vinod Kumar @ Vinod Saddi Vs. State of Punjab, 2011(2) R.C.R. (Criminal)*** as follows:-

“5.Learned counsel for the petitioner has referred to the decision of this Court rendered in the case of Gurpreet Singh alias Khinder v. State of Punjab, reported as

*1995(2) RCR (Criminal) 127. In that case also, the co-accused had been acquitted. The Court came to the conclusion that the petitioner was not required to undergo the ordeal of a trial, particularly, when the co-accused of the petitioner was acquitted. In Gurpreet Singh's case (supra), learned Single Judge, while arriving at the said conclusion, relied on the judgment of the Apex Court rendered in the case of **Madhavrao Jiwaji Rao Scindia and another v. Sambhajirao Chanrojirao Angre and others, 1988(1) Recent CR 565.** The Apex Court in **Madhavrao Jiwaji Rao Scindia's** case (supra) held as follows :-*

"The legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is weak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage".

*6.Reference has also been made to the judgment rendered by the Delhi High Court in the case of **Urmila***

Devi v. The State (NCT of Delhi) reported as 2007(1)RCR (Criminal) 246, wherein, in similar circumstances, the FIR was quashed by relying on the various judgments of the Apex Court and discussed in detailed in para 5 of the said judgment. Para 5 of the judgment reads as under :-

*"5. The learned counsel for the petitioner took me through the judgment dated 24.09.2003 to show the manner in which the evidence led by the prosecution witnesses and, particularly, by the mother and sisters of the deceased (Meenu) have been discussed in detail by the trial court and have been found to be untrustworthy. He then referred to the decision of a learned Single Judge of this Court in the case of **Sunil Kumar v. State, 1999(4) R.C.R.(Criminal) 637 : 81 (1999) DLT 197**, wherein, also, the two co-accused had been acquitted while the petitioner therein had been absconding and, therefore, the trial could not proceed against him. Subsequently, after the co-accused were acquitted, the petitioner, in that case, surrendered before the additional Sessions Judge and sought his discharge on the ground that the other accused had been acquitted of the offences under Sections 148/302/149 Indian Penal Code. Rejecting that prayer, the learned Additional Sessions Judge had framed a charge under Sections 304/34 Indian Penal Code against the petitioner therein. However, this Court set aside that order and concluded that the trial would only mean a wastage of time in as much as it was of the view that the evidence against all the accused persons was inseparable and indivisible and, therefore,*

when the co-accused had been acquitted, there was no reason to treat the petitioner differently on the basis of the same evidence. Paragraph 3 of the said decision is relevant and it reads as under :-

*"3. the question thus is as to whether in the face of the judgment of acquittal the petitioner should still be permitted to undergo the ordeal of a trial. In **Sat Kumar v. State of Haryana, AIR 1974 Supreme Court 294**, it was held that there is no rule of law that if the Court acquits some of the accused on the evidence of a witness raising doubt with regard to them the other accused against whom there is absolute certainty about his complicity in the crime based on the remaining credible part of the evidence of that witness must be acquitted. (see also **Har Prasad v. State of Madhaya Pradesh, AIR 1971 Supreme Court 1450**; **Makan Jivan v. State of Gujarant, AIR 1971 Supreme Court 1797**; **Mohd. Moin Uddin v. State of Maharashtra, 1971 SCC (Cri.) 617**). But where the evidence against all the accused persons is inseparable and indivisible and if some of the accused persons have been acquitted, the remaining accused persons cannot be treated differently on the basis of the same evidence."*

7. In view of above discussion, it is established that the allegations against the petitioner are not distinct or separate from the allegations qua all other accused who have already been acquitted by the trial Court. Moreover, even the petitioner and seven other accomplices of the respondent No. 2 have already been acquitted by

the Court of SDJM Anandpur Sahib vide judgment dated 16.02.2012. Thus, continuation of proceedings against the present petitioner would be misuse of the process of the Court and are liable to be quashed.

8. In view of the above discussion, the present petition is allowed and the order dated 05.09.2005 (Annexure P-8), passed by the Court of Sub-Divisional Magistrate, Anandpur Sahib, whereby the petitioner has been declared as proclaimed offender, the impugned complaint No. 74 dated 22.07.2002 (Annexure P-2), titled as ***“Prem Singh versus Mukinder Singh and others”***, which was pending in the Court of Judicial Magistrate 1st Class, Anandpur Sahib, as well as the summoning order dated 11.09.2003 (Annexure P-3) passed by the Court of Judicial Magistrate 1st Class, Anandpur Sahib, whereby, the petitioner has been ordered to summon to face trial under Section 323, 326, 148, and 149 of IPC and all consequential proceedings arising therefrom are ordered to be quashed.

13.08.2026

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No