

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-20661-2012 (O & M)
Date of decision:05.08.2015

Sarabjit Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sunil Chadha, Sr. Advocate,
with Mr. M.S. Atwal, Advocate,
for the petitioner.

Mr. Shilesh Gupta, Addl.A.G., Punjab.

Rajan Gupta, J. (oral)

This is a petition under Section 482 Cr.P.C. praying that petitioner should have been separately charged and tried for offences under the NDPS Act. Mr. Chadha, learned Senior counsel for the petitioner has emphasized that petitioner was neither named in the secret information nor arrested on the spot. The trial court committed grave error while framing the charge. Alleged crime committed by the petitioner was not the part of the same transaction. Thus, he was entitled to separate trial.

Prayer has been opposed by learned State counsel. According to him, after accused were apprehended by the police, they disclosed the name of the petitioner who fled from the spot. According to him, this finds mention in the FIR itself. Petitioner was arrested next day from Ludhiana with 04 Kgs. of heroin. He, thus, submits that there is no substance in the plea raised by the petitioner.

I have heard learned counsel for the parties. It appears police received a secret information that certain accused had come to

Punjab and had closed relation with drug mafia in Canada. They used to smuggle intoxicants to Pakistan through the border. This contraband was further sent to Canada. On this information, police found two vehicles i.e. a green colour qualis and indica car near tea point at Chandigarh road. A raid was conducted. Three persons were found standing near the vehicles. Two persons boarded the qualis vehicle and one got into indica car. Though police was able to over-power the persons sitting in the qualis vehicle, petitioner allegedly escaped in the indica car. Investigation continued and on the next day, SI Sukhwinder Singh got another secret information that petitioner was going to strike a deal for selling 04 Kgs of heroin. He raided the spot and petitioner was apprehended. After completion of investigation, challan was presented before the competent court. The court after examining the contents thereof framed charges against all the accused. Only plea raised before this court is that the incident that occurred on the next day concerning the petitioner is not part of the same transaction. He, thus, cannot be tried alongwith other accused. Besides, there is nothing common between the two incidents on succeeding days.

I am not convinced with the plea. It is evident that name of the petitioner was disclosed by co-accused and finds mention in the FIR itself. Petitioner was apprehended on the very next day with 04 Kgs. of heroin and same was recovered by the investigating agency. Besides, by now trial has made much headway. All prosecution witnesses except 04 have been examined.

I am, thus, of the considered view that no case for interference in inherent jurisdiction is made out.

Dismissed.

05.08.2015
sukhpreet

(RAJAN GUPTA)
JUDGE