

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.1897 of 2015 (O&M)

Date of Decision: 21.04.2015

Jasvir Singh Dhammi

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present: Mr. Gaurav Sharma, Advocate
for the petitioner.

Mr. Gurvir Sidhu, AAG, Punjab
for the State.

Mr. Chitresh Sharma, Advocate for
Mr. Navkiran Singh, Advocate
for respondent No.2.

R.P. Nagrath, J. (Oral)

Learned State counsel has filed reply by way of affidavit
of Kesar Singh Dhaliwal, Deputy Superintendent of Police, Tapa.

Petitioner has invoked the jurisdiction of this Court under
Section 482 Cr.P.C. seeking to quash the order dated 22.12.2014
(Annexure P-1) passed by Addl. Chief Judicial Magistrate directing
the release of respondent No.2 from custody in FIR No.91 dated
18.12.2008 under Sections 307, 341, 427, 148, 149 IPC and
Sections 25, 27 of the Arms Act, Police Station Bhadaur, District

Barnala.

I have heard learned counsel for the petitioner, learned State counsel assisted by Mr. Chitresh Sharma, Advocate for respondent No.2 and perused the paper book.

Respondent No.2 was also mentioned as one of the accused and according to learned counsel for the petitioner he was the main culprit having fired from his weapon and enquiry was also conducted by the SSP finding his involvement in the crime. Challan against rest of the accused was presented on completion of investigation on 01.07.2011 whereas respondent No.2 was declared as proclaimed offender on 28.09.2014 and arrested as such on 05.12.2014. Thereafter the investigating agency moved an application before the Magistrate seeking his release from custody as there was no sufficient evidence found against him.

Learned counsel for the petitioner submits that this is contradictory stand of the investigating officer after having found him involved in the earlier enquiry. That is a question which can be determined by the trial Court. Learned counsel for the petitioner further submits that complainant has already made statement and witnesses have also made statements during the trial pending against the co-accused.

In view of the aforesaid circumstances, when an application for release of respondent No.2 from custody was made before the Area Magistrate, the Area Magistrate had no option except to order his release from custody.

In the circumstances as discussed above, there is

no question of this Court exercising its discretion to interfere in the impugned order. The instant petition is thus dismissed.

Petitioner and the State would, however, be at liberty to move appropriate application for summoning respondent No.2 as additional accused in terms of Section 319 Cr.P.C. and on moving such an application the trial Court would obviously decide the same in accordance with law.

(R.P. Nagrath)
Judge

21.04.2015
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