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

**CRM-M-23723 of 2015 (O&M)**

**Date of decision: August 17, 2015**

Surinder Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE SABINA**

**Present:** Mr. H.S. Bhullar, Advocate  
for the petitioner.

**SABINA, J**

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.215 dated 17.06.1988, under Sections 307, 506, 216 of Indian Penal Code, 1860 ('IPC' for short) and Sections 3/4/6 of Terrorist and Disruptive Activities (Prevention) Act, 1987 ('Act' for short), registered at Police Station Guhla, District Kaithal.

Learned counsel for the petitioner has submitted that the petitioner was falsely involved in this case. Petitioner never approached the Court for bail. In fact, petitioner was involved in another criminal case and in the said case, petitioner was discharged and released from Jail in the year 1994. So far as the present case is concerned, petitioner was not named in the FIR. Learned counsel has further submitted that it is only now, when the petitioner moved an application for grant of passport, he realised that the FIR in question was still pending against the petitioner. The co-accused who had faced the trial had

been acquitted by the trial Court. Hence, FIR in question was liable to be quashed qua the petitioner. In support of his arguments, learned counsel has placed reliance on **Sudo Mandal @ Diwarak Mandal versus State of Punjab**, 2011 (2) R.C.R. (Criminal) 453, wherein, it was held as under:-

*“The above provisions recognize the inherent powers of the Court to do real and substantial justice, preventing the abuse of the process of the Court. The statutory recognition of the inherent jurisdiction of the criminal Court indicates that there is a power for the criminal Courts to make such an order as may be necessary to meet the ends of justice. We are conscious of the fact that the powers under Section 482 of the Code of Criminal Procedure are to be exercised very sparingly and in exceptional cases where abuse of the process of the Court would result in serious miscarriage of justice. The inherent powers of the Court should not be exercised to stifle legitimate prosecution. But at any rate the settled position is that this Court has the jurisdiction to quash the entire criminal proceedings to prevent the abuse of the process of the Court in order to secure the ends of justice. In our considered view the same inherent powers can be exercised when this Court finds that the innocent accused, who had absconded would simply face the empty formality of trial with the very same unbelievable and untrustworthy evidence, which would ultimately lead to their acquittal. Bringing the absconding accused to face the trial in this case in the above facts and circumstances would amount to abuse of the process of the Court. To secure the ends of justice, we hereby quash the entire proceedings as against the absconding accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal pending*

*before Judicial Magistrate Ist Class, Bathinda/ Sessions Judge, Bathinda, as no useful purpose will be served even if they are procured and ordered to face the trial in this case.”*

Learned counsel for the petitioner has also placed reliance on **Gurwinder Singh @ Mintu versus State of Punjab**, 2012 (3) R.C.R. (Criminal) 360, wherein, it was held as under:

*“In Gurpreet Singh's case (supra), the allegation against 3 persons was of committing the offence, out of which one was arrested and the other had escaped. The arrested accused was acquitted and the escaped accused surrendered subsequently but no additional evidence was made available against the accused. In view thereof, the proceedings against him was ordered to be quashed on the principle that continuation of proceedings on the basis of same evidence would result in the waste of Court's time and unnecessary expenditure on State exchequer. In Sudo Mandal @ Diwarak Mandal's case (supra), five accused were involved in a murder case in which two accused were arrested and three were declared proclaimed offenders. The two arrested accused were tried and acquitted. It was held by this Court that it would be an empty formality to send rest of the accused for trial on the same unbelievable and untrustworthy evidence which would ultimately lead to their acquittal.”*

Learned counsel for the petitioner has further placed reliance on **Jasvinder Singh versus State of Punjab**, 2013 (1) R.C.R. (Criminal) 310, wherein, it was held as under:-

*“Thus, in case, the evidence sought to be adduced is the same, allowing the trial to continue will*

*unnecessary waste the time of the Court especially the result is also likely to be the same as in the case of the coaccused. It would be a futile exercise to continue the proceedings against the present petitioner when the other co-accused stands acquitted on the basis of same set of allegation.”*

Prosecution story in brief is that on 16.06.1998, complainant Gurcharan Singh was sleeping in his house alongwith his family members. At about 11:30 PM, Piara Singh and Bhagwant Singh called the complainant from outside and told him that two Sikh gentlemen wanted to meet him. Complainant did not open the gate as he suspected that they might be some terrorists. Complainant told them that he would meet them in the Morning. Thereafter, persons standing outside the gate of the house of the complainant, started firing at him and said that he (complainant) be taught a lesson for becoming police tout.

After completion of investigation and necessary formalities, challan was presented against the accused Balwinder Singh, Nirmal Singh, Lakha Singh, Yadwinder Singh, Joginder Singh, Kashmir Singh and Kapoor Singh. So far as the petitioner is concerned, he was declared proclaimed offender vide order dated 09.02.1993. The accused who had face the trial qua commission of offence punishable under Sections 307/34/506/120-B IPC and Sections 3/4 of the Act, were acquitted by the trial Court vide order dated 04.01.1994 (Annexure P-5). Trial Court while ordering the acquittal of the accused, who were facing the trial has opined that PW6 Sh. S.S.

Deswal, Commandant had only recorded the confessional statement of accused Surinder Singh, who was not present in the Court and had been declared a proclaimed offender. So far as the other accused are concerned, the trial Court held that there was no direct evidence qua the involvement of the said accused who were facing the trial. Thus, from a perusal of the judgment (Annexure P-5), it is evident that so far as the petitioner is concerned, his case is not on a similar footing as the case of other accused who were facing the trial and had been ordered to be acquitted by the trial Court. In the facts and circumstances of the present case, the judgments relied upon by the learned counsel for the petitioner fail to advance the case of the petitioner as they are based on different facts. Petitioner is a proclaimed offender.

Hence, no ground for interference by this Court is made out.

Dismissed.

**(SABINA)  
JUDGE**

**August 17, 2015**  
*mahavir*