

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH****CRM-M-31873-2013
Date of decision:28.9.2015**

Sukhjit Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.P.K.S.Phoolka, Advocate for the petitioner.
Ms.Anmol Grewal, AAG, Punjab.**RAMESHWAR SINGH MALIK, J. (Oral)**

Petitioner, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seeks quashing of FIR No.6 dated 8.1.2006 registered under Sections 341, 323, 148 and 149 of the Indian Penal Code ('IPC' for short) and also the order dated 30.5.2008 (Annexure P-2), whereby petitioner was declared proclaimed offender, along with subsequent criminal proceedings arising therefrom.

Notice of motion was issued and pursuant thereto, reply has been filed on behalf of respondent-State.

Learned counsel for the petitioner places reliance on the judgment dated 5.6.2010 (Annexure P-4) passed by the learned trial Court, whereby co-accused of the petitioner were acquitted of the charges framed against them. He further submits that identity of the accused could not be established, which was the main reason for their acquittal. He further submits that since the petitioner was identically placed, continuation of

criminal proceedings, arising out of the impugned FIR, against the petitioner, would be a futile exercise. He also submits that the learned trial Court illegally declared the petitioner as proclaimed offender and the said order was also liable to be set aside. He prays for quashing of the impugned FIR (Annexure P-1), impugned order (Annexure P-2) declaring the petitioner as proclaimed offender as well as consequential criminal proceedings arising therefrom, by allowing the present petition.

On the other hand, learned counsel for the State vehemently opposes the present petition, contending that in the peculiar facts and circumstances of the case, petitioner is not entitled to invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C. and the present petition is liable to be dismissed with costs.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar fact situation obtaining in the present case, instant one has not been found to be a fit case, warranting interference at the hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C. To say so, reasons are more than one, which are being recorded hereinafter.

It is a matter of record that petitioner was declared proclaimed offender vide order dated 30.5.2008 (Annexure P-2). Charge came to be framed against his other co-accused at a later point of time vide order dated 14.7.2008 (Annexure P-3). Thereafter, co-accused of the petitioner came to be acquitted vide judgment of acquittal dated 5.6.2010 (Annexure P-4), primarily for the reason that identity of the accused could not be established.

In view of the circumstances noticed hereinabove, the issue that falls for consideration before this Court is whether the petitioner can seek

quashing of the FIR only on the basis of judgment of acquittal (Annexure P-4), whereby his co-accused were acquitted. Once the petitioner was not physically available before the learned trial Court, there was no scope for the prosecution witnesses to identify the petitioner. In such a situation, it cannot be ruled out that the concerned prosecution witness may identify the petitioner as and when he appears before the Court. Further there may be cogent and convincing evidence sufficient for recording the conviction of the petitioner. It would be entirely different fact situation that petitioner may also be acquitted of the charges by learned trial Court after he faces the criminal trial. However, said fact situation cannot be presumed in favour of the petitioner until and unless he faces the criminal trial. It is so said because the petitioner would be claiming parity with his co-accused only when he faces the trial.

Further, petitioner is running away from the law for the last more than seven long years, without there being any justification. Even his co-accused came to be acquitted by the learned trial Court as far back as on 5.6.2010. Still the petitioner kept on misusing the process of law for another five years after passing of the judgment (Annexure P-4). In such a situation, it can be safely concluded that a person, who has not shown any respect to the law, is not entitled for any sympathy from the court, as well. A litigant like the petitioner cannot be permitted to invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C.

Although the inherent powers of this Court under Section 482 Cr.P.C. are wide enough, yet it is equally true that the same are to be exercised sparingly and with circumspection. For the reasons noted hereinabove, present one has not been found to be a fit case for exercising

the inherent powers under Section 482 Cr.P.C., at the hands of this Court.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present petition stands dismissed, however, with no order as to costs.

28.9.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE