

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Crl. Revision No. 1935 of 2006

Date of decision : February 2, 2015

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Paramjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. P.P.S Duggal, Advocate for the petitioner.

Mr. Daljit Singh Virk, AAG, Punjab.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

Present revision petition has been filed against the judgment dated 11.9.2006, whereby the appeal against the judgment and order dated 14.12.2002 passed by the Chief Judicial Magistrate, Kapurthala has been dismissed. Vide the trial Court judgment, the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 2000/- and in default of payment of fine to further undergo RI for three months under Section 223 IPC.

The prosecution version, in brief, is that on 20.11.1997

Superintendent District Jail, Kapurthala sent a letter to the SHO,

Police Station Kotwali, Kapurthala to the effect that under trial Bikramjit Singh son of Avtar Singh resident of Village Ibrahimpur, Police Station Tanda, District Hoshiarpur was lodged in the District Jail, Kapurthala in criminal case having FIR No.1 of 7.1.1995 under Section 302/34 IPC, Police Station Bholath. The said under trial was suffering from urine problem and he was sent to civil hospital, Kapurthala for his treatment under custody. The said under trial was got admitted in Civil Hospital Kapurthala on 16.11.1997 for his medical treatment. On 20.11.1997, Dr. Gurbachan Singh, Surgical Specialist, Civil Hospital Kapurthala informed in writing to the Jail Superintendent District Jail, Kapurthala that Bikramjit Singh has been missing from the hospital ward along with the police guard since 8 A.M on that day. On receiving this information, Assistant Superintendent Jail went to Civil Hospital, Kapurthala and he found Bikramjit Singh and police guard missing from the ward. On return to the District Jail, Kartar Chand, Assistant Superintendent Jail informed the jail Superintendent that under trial Bikramjit Singh and police guard is missing from the hospital. In this background FIR was registered against Bikramjit Singh and other police officials who were on guard duty in Civil Hospital, Kapurthala at the relevant time.

During the investigation, it was revealed that Constable Paramjit Singh took under trial Bikramjit Singh to his village in Maruti Car No. PB-02-A-6866 from Kapurthala and then to Ludhiana and from Ludhiana Bikramjit Singh managed to escape in the said car. The police failed to apprehend Bikramjit Singh and finally he was

declared Proclaimed Offender by the Court. Accused were arrested in this case.

On the completion of the investigation, challan was presented against the accused and charges were framed against them under Sections 120-B, 223/224 IPC, to which they did not plead guilty and claimed trial.

Prosecution examined PW-1, Roop Kumar, DSP of Jail Kapurthala, PW-2 Mohinder Singh, Head Ward, PW-3, Baljinder Singh, Assistant Superintendent Jail, Kapurthala, PW-4 Kartar Chand, Asstt. Supdt. Distt. Jail, Kapurthala, PW-5 Jarnail Singh, PW-6, Parveen Kumar, PW-7 ASI Partap Singh, PW-8 Dr. Gurbachan Singh, PW-9 Head Constable Baldev Dutt, PW-10, Gulzar Singh ASI, PW-11 Parvez Masih Criminal Ahlmad, PW-12 Gulshan Kumar, PW-13 Kavita Rani and closed the prosecution case.

On 16.11.1997, appellant along with Head Constable Kashmira Singh was deputed to guard the under trial Bikramjit Singh as per Ex. PW9/A. No duty roster was placed on the file by the prosecution. The deposition of one independent witness PW-6, Navin Kumar has been accepted by the trial Court. As per the deposition of PW-6, Naveen Kumar on 19.11.997, his friend Parveen Kumar came to him along with Parmajit Singh in order to hire his Maruti Car No.PB-02 6866 to go to Village Maini. Parveen Kumar introduced Paramjit Singh as his friend to PW-6 Naveen Kumar. He took Parmajit Singh and one another person in his car to Village Maini and during night time, they stopped their car to take tea. When

they were taking tea, third person who was accompanying them took away the car and did not come back. Parmajeet Singh was responsible for the escape of under trial Bikramjit Singh from Civil Hospital, Kapurthala where he was undergoing treatment. The trial Court after going through the entire evidence led by the prosecution, acquitted C-II Harnek Singh, Constable Rajesh Kumar and Constable Major Singh of the charges framed against them and convicted and sentenced the petitioner Paramjeet Singh as aforestated.

Counsel for the petitioner has placed on record the decision of the civil suit dated 12.8.2011 (Annexur P-5). In this suit, the appellant Paramjit Singh had sought declaration that the order dated 30.4.1999 is illegal and void. This suit had been decreed by giving direction to the respondents to re-inquire the matter as no opportunity of hearing was given to the petitioner. He has further informed the Court that on re-inquiry, the petitioner has been reinstated and is working in the Department as of today.

Counsel for the State has placed on record the Jail Custody Certificate of the petitioner Paramjit Singh. As per the custody certificate, out of one year the petitioner has undergone 1 month and 29 days of custody and was released on bail on 9.11.2006.

I have heard counsel for the parties. As per the Civil Court decree (Annexure P-5), the order dismissing the petitioner was declared to be illegal void as no departmental enquiry had been conducted and the appellant had not been given any opportunity of

hearing. This suit has been decreed by the trial Court on two grounds. First ground is that no opportunity of hearing was given to the petitioner. Second ground is that there were four police officials including the petitioner who were on guard duty to keep watch on the under trial in custody in the hospital. Services of all were dismissed by the SSP, Kapurthala. However, on appeal, DIGP, Jalandhar reduced the punishment of Major Singh by forfeiting his two years approved service with permanent effect for the purpose of increments and that of Harnek Singh by forfeiting his 5 years approved service with permanent effect for the purpose of increments but upheld the dismissal of the plaintiff Paramjit Singh. It was held that this order was discriminatory in nature. In any case, the departmental proceedings in a service matter are separate from criminal proceedings. In the present case, the conviction of the petitioner is based on the testimony of PW-6 Naveen Kumar. As per his deposition, he took Parmajit Singh and one another person in his car to Village Maini and during night time, they stopped their car to take tea. When they were taking tea, third person who was accompanying them took away the car and did not come back. PW-12 Gulshan Kumar proved the insurance policy of Car No. PB-02-A-6866. PW-13, Kavita Rani deposed that she was the owner of car No. PB-02-A-6866 which was later on sold by her to Naveen Kumar. The prosecution has been able to prove by leading cogent evidence that it was the petitioner who in the car of Naveen Kumar had gone along with under trial and facilitated him to escape from the hospital,

where he was undergoing treatment.

Having examined the impugned judgments, no illegality, much less irregularity has been found therein warranting interference by this Court. Accordingly, they are upheld.

As per the Jail Custody Certificate of the petitioner filed in the Court, he is not a previous convict. The case of the petitioner falls under Sub-clause 3 of Section 360 Cr.P.C. Moreover, the incident in the present case took place on 20.11.1997 and the petitioner has faced this criminal trial for almost 17 years. As per the Jail Custody Certificate, he has not misused the concession of bail. Counsel for the petitioner has further informed that the petitioner has been reinstated in service after departmental enquiry was conducted. A reference at this stage can be made to a decree dated 12.8.2011 (Annexure P-5), whereby a civil suit filed by the petitioner challenging the order dated 30.4.1999 passed by the Deputy Inspector General of Police, Jalandhar Range, Jalandhar Cantt, whereby the appeal of the petitioner was rejected and in which the order dated 7.10.1998 passed by the Senior Superintendent of Police Kapurthala dismissing the petitioner from service was merged. This suit had been decreed by giving direction to the respondents to re-inquire the matter as no opportunity of hearing was given to the petitioner. After the decree in the departmental proceedings petitioner has been reinstated. This fact has not been disputed by the respondents. Hence, his case can now be considered for release on probation.

The petitioner is ordered to be released on probation on

furnishing probation bonds to the satisfaction of the trial Court for a period of one year to maintain peace and be of good behaviour. He shall furnish an undertaking that he shall not commit any offence of the like nature during the period of probation.

With the above modification, the petition stands disposed of.

February 2, 2015
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(RITU BAHRI)
JUDGE