

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

**Criminal Misc. No. M-40 of 2015  
Date of Decision: 6.8.2015**

Chamkaur Singh

.....Petitioner.

Versus

State of Punjab

.....Respondents.

**CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK**

Present: Mr. R.S.Malik, Advocate  
for the petitioner.

Mr. Daljit Singh Virk, AAG, Punjab.

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1. Whether Reporters of 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?

**RAMESHWAR SINGH MALIK J.(ORAL):**

The petitioner has approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.'), invoking its inherent jurisdiction, for quashing of FIR No. 22 dated 25.2.2005 under Sections 22/61/85 of the NDPS Act registered at Police Station Nihal Singh Wala and the consequential proceedings arising therefrom.

Notice of motion was issued and pursuant thereto, reply by way of affidavit dated 6.8.2015 of the Deputy Superintendent of Police, Sub Division Nihal Singh Wala District Moga, filed in the Court today, is taken on record and copy thereof has been supplied to the learned counsel for the petitioner.

Learned counsel for the petitioner submits that petitioner was declared innocent by the investigating agency itself as far back as in the year 2005. He further submits that till date, challan has not been presented against the petitioner. However, in view of the challan having been presented against the co-accused of the petitioner and also declaring him proclaimed offender, petitioner is being put to this wholly unwarranted and disadvantageous situation, because of which he cannot claim to have been granted a clean chit till the present FIR is quashed against him. He also submits that whenever the petitioner wants to apply for any government job, he is being stated to be involved in the present FIR, despite the fact that a period of more than 10 long years has already elapsed, after the investigating agency declared the petitioner as innocent. He prays for allowing the present petition.

Learned counsel for the State, while referring to the averments taken in para 1 and 2 of the preliminary submissions, submits that petitioner was found innocent by the investigating agency. However, he opposes the instant petition on the ground that in case, some material comes to light against the petitioner, during the course of trial, prosecuting agency would have a right to move an appropriate application under Section 319 Cr.P.C., for summoning the petitioner. He prays for dismissal of the present petition.

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 rival contentions raised, this Court is of the considered opinion that in the given fact situation

of the present case, instant petition deserves to be partly allowed and the impugned FIR is liable to be quashed. To say so, reasons are more than one, which are being recorded hereinafter.

When a pointed question was put to the learned counsel for the State as to whether the prosecuting agency is intending to move an application under Section 319 Cr.P.C. against the petitioner, he fairly states that the prosecuting agency is not intending to do so. So far as innocence of the petitioner is concerned, it has already been established on record, by investigating agency itself and that too, more than 10 years back.

As rightly pointed out by the learned counsel for the State that prosecuting agency is not intending to move any application under Section 319 Cr.P.C. against the petitioner, the petitioner cannot be forced to face the present unwarranted situation. In this view of the matter, it is unhesitatingly held that present one is a fit case, for exercising its inherent jurisdiction by this Court under Section 482 Cr.P.C., so as to prevent the abuse of law any further and also to secure the ends of justice.

Once the investigating agency, after carrying out a thorough investigation, has come to a definite conclusion that the petitioner was innocent and did not file any challan against him, petitioner cannot be forced to face this very situation any further, particularly when investigating agency is not intending to move an application under Section 319 Cr.P.C. against the petitioner, even during the course of trial. Further, since the prosecuting agency, although got the main accused declared proclaimed offender as far back as on

18.2.2010 but failed to arrest him till date and the learned trial court has also consigned the case file under Section 299 Cr.P.C., vide order dated 20.11.2010, petitioner cannot be made to suffer for the default of the prosecuting agency.

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 continuation of this unwarranted situation will cause a serious prejudice to the academic and service career of the petitioner. Thus, in the given fact situation of the instant case, referred hereinabove, it is directed that as and when petitioner applies in future, either for admission in a higher class or for any government job, the abovesaid impugned FIR will not stand in his way, in any manner whatsoever.

Under the peculiar circumstances of the case, Senior Superintendent of Police, Moga, is also directed to look into the case, to ensure prompt action so as to arrest the proclaimed offender at an early date, so that the matter is taken to its logical end.

Resultantly, with the abovesaid observations made and directions issued, instant petition stands partly allowed and disposed of, accordingly.

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**

6.8.2015  
AK Sharma