

CRM No. M-6292 of 2015
Date of decision : 25.2.2015

Paramjit Singh

Petitioner

v.

State of Punjab & Anr.

Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ramesh Sharma, Advocate for the petitioner

...

JITENDRA CHAUHAN,J.

1. The present petition has been filed under section 482 Cr.P.C, seeking quashing of the FIR No. 210 dated 5.9.2008 under sections 447, 427, 511, 148 and 149 IPC, registered at Police Station Sadar Phagwara District Kapurthala and Order dated 29.11.2010, passed by Judicial Magistrate Ist Class, Phagwara.

2. The learned counsel for the petitioner contends that co-accused have been acquitted by the ld. Trial court on 2.6.2012, as the complainant and the eye-witnesses to the occurrence have turned hostile. He further contends that a compromise has been effected between the parties on 14.2.2015. He further contends that the co-accused have been acquitted in this FIR vide Annexure P-2 and thus claims the parity. He prays that the FIR and subsequent proceedings may be quashed.

3. Heard.

4 A perusal of the file shows that petitioner-Paramjit

Singh was declared proclaimed offender on 29.11.2010. In the order dated 2.6.2012, passed by the Ld. Judicial Magistrate Ist Class, Phagwara acquitting the other co-accused, it was specifically mentioned that since the petitioner has been declared proclaimed offender, the proceedings against him shall be revived as and when he was arrested or produced by the police in the Court. A person, who is evading the process of the Court is not entitled to any relief.

5. In **Uma Shankar Gautam v. State of Madhya Pradesh**, 2014 RCC(SC) 1207, Hon'ble the Supreme Court held that a co-accused cannot claim acquittal on the ground of parity. Para 12 of the judgment reads as under:-

“12. We do not find any substance in the submission of the learned senior counsel appearing for the appellant that since accused Nos. 5 & 6 have been acquitted; on the ground parity the appellant herein also deserves to be acquitted. It is always open to the Court to differentiate the accused who had been acquitted from those who had been convicted. The power of the courts to distinguish the cases of one or more of the accused from the other (s) is far too well recognized to need reiteration. Still, we may notice the principle as stated in **Gangadhar Bachera v. State of Orissa** (2002) 8 SCC 381, wherein this Court observed as follows:-

“.....Even if a major portion of the evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, notwithstanding acquittal of a number of other co-accused persons, his conviction can be maintained.

It is the duty of the court to separate the grain from the chaff. Where chaff can be separated from the grain, it would be open to the court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove guilt of other accused persons.”

6. Dismissed.

(JITENDRA CHAUHAN)
JUDGE

25.2.2015
MS