

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-9172-2015

Date of decision: 23.03.2015

Satwant Singh @ Rocky

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the 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?*

PRESENT: Mr. Navkiran Singh, Advocate for the petitioner.

R.P. NAGRATH, J.

Prayer made in the instant petition is for compounding of offences in case FIR No. 69 dated 15.05.1997 registered under Sections 325/452/323/308/148/149 of the Indian Penal Code (IPC) at Police Station Nurmahal, District Jalandhar on the basis of affidavit of complainant-respondent No. 2 dated 02.02.2015 (Annexure P-6) in exercise of inherent jurisdiction of this Court under Section 482 Cr.P.C.

I have heard learned counsel for the petitioner at considerable length and given my thoughtful consideration to the contentions raised by learned petitioner's counsel in support of the petition and find no substance in the same.

The petitioner faced trial for the offence under Sections

325/452/323/308/148 read with Section 149 IPC along with his co-accused namely; Sham Lal, Mohinder Singh and few others. Sham Lal, aforesaid was convicted of the substantive offence under Section 325 IPC whereas the petitioner and Mohinder singh were convicted under Section 325 read with Section 34 IPC. There were in all 15 injuries on the person of complainant/respondent No. 2-Gurbax Singh. The petitioner and two of the other accused were acquitted of the charges under Sections 308/452/323/148/149 IPC. Four years of rigorous imprisonment was awarded to them all for offence under Section 325 IPC. CRA-S-1104-SB-2003, was filed by the petitioner and his co-accused also filed criminal appeals which were decided by this Court vide judgment dated 16.03.2011 (Annexure P-4), by a common order. By affirming the conviction, this Court reduced the sentence from 4 years rigorous imprisonment to 2 years rigorous imprisonment but the sentence of fine and default clause were to remain intact. Special Leave to Appeal (Criminal) No. 4723 of 2011 was also filed before Hon'ble Supreme Court by the petitioner and Hon'ble Supreme Court dismissed the same vide order dated 08.08.2011 (Annexure P-5) by observing there was no merit in the petition for special leave.

It is stated that the petitioner is suffering from alcoholic liver disease with alcoholic hepatitis and recently gone for liver treatment with stem cell technology. He is seriously ill for the last about six months. The Hepato Medical Report of the Department of Hepatology, PGIMER, Chandigarh, showing his admission for the period from 15.09.2014 to 01.10.2014 was relied upon as Annexure P-1. It was further stated that

the file relating to the liver clinic dated 13.10.2014 also discloses that he is being under treatment of PGI, Chandigarh.

It is contended by learned petitioner's counsel that petitioner was not attributed any specific injury and was convicted with the aid of Section 34 IPC. It is further contended that the petitioner could not surrender even after dismissal of appeal due to his ill health and has finally contacted Gurbax Singh-complainant/respondent No. 2 and taking into consideration the ill health of petitioner, the complainant has decided to pardon the petitioner. In support of this contention reliance has been placed on affidavit of complainant-respondent No.2 dated 02.02.2015 (Annexure P-6). Learned counsel for the petitioner also vehemently contended that Special Leave to Appeal (Criminal) No. 4723 of 2011, was dismissed in limine by the Hon'ble Supreme Court, therefore, the doctrine of merger would not apply.

I am not convinced with the above arguments because the Hon'ble Supreme Court specifically observed that there was no merit in the petition for special leave. It is also quite obvious that after the dismissal of the Special Leave to Appeal (Crl.) by Hon'ble Supreme Court on 08.08.2011 i.e. more than 3 ½ years ago, the petitioner had all along been avoiding his arrest and did not surrender before the authorities to undergo the imprisonment. In this way the petitioner has apparently made mockery of the administration of criminal justice system which cannot be encouraged. After the conviction and sentence of the petitioner was upheld upto the Hon'ble Supreme Court, the complainant/victim would have no role to play in extending benevolence of pardon.

In view of the above, the instant petition being without merit,
is dismissed.

March 23, 2015
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(R.P. NAGRATH)
JUDGE