

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 592 of 2014
DECIDED ON : April 23, 2015

Pal Singh

.....Petitioner.

versus

State of Punjab and another

.....Respondent.

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

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

Mr. J.S. Sekhon, AAG, Punjab.

JASPAL SINGH, J. (ORAL)

Challenge in the instant revision petition is to the charge sheet and order dated October 24, 2013 passed by learned Additional Sessions Judge (Designated), Ropar whereby, petitioner was charge sheeted to face trial under Sections 10, 13, 18 and 20 of Unlawful Activities (Prevention) Act, 1967 (for brevity "UAP Act").

2. The contention of learned counsel for the petitioner is that a blind FIR No. 201 dated May 08, 2010 under Sections 4 and 5 of Explosive Substances Act 1908 (for short "Act 1908) and section 13 of UAP Act was registered at Police Station Civil Lines, Amritsar.

Later on, co-accused Narayan Singh was also implicated in this

case. During investigation of the aforesaid FIRs police recorded the statement of Narayan Singh and registered an FIR 29 dated February 27, 2013 under Sections 3, 4 and 5 of Act 1908 and Section 25, 54 and 59 of Arms Act, 1959 (for brevity "Act") and Sections 10, 13, 18 and 20 of UAP Act at Police Station Kurali. Though some recovery of arms and ammunition is alleged to have been effected from Narayan Singh, co-accused of the petitioner in pursuance of his disclosure statement. But nothing incriminating was recovered from the petitioner. He has simply been arrayed accused on the basis of alleged disclosure statement made by his co-accused Narayan Singh. But even in pursuance of said disclosure statement of Narayan Singh there is no evidence collected by investigating agency showing the involvement of petitioner. The disclosure statement, if any made by Narayan Singh co-accused of the petitioner is inadmissible qua petitioner especially in the circumstances that no recovery of any arms and ammunition or any other incriminating article has been effected from the possession of petitioner.

3. It has further been contended by learned counsel for the petitioner that there is not an *iota* of evidence against the petitioner to *prima-facie* establish that he is a member of Babbar Khalsa International, which has been declared unlawful by Government of India or that he has abetted/incited the commission of any unlawful activities or that he has ever conspired or attempted to commit or abet the commission of terrorist act and/or that he is involved in terrorist activities to attract sections 10, 13, 18 and 20 of UAP Act.

The recovery of explosive material if any is from Narayan Singh and for that, petitioner cannot be held liable. The charge framed against the petitioner is not sustainable in the eyes of law and is liable to be set aside by way of acceptance of instant revision petition.

4. Per contra learned State counsel has vehemently contended that factual background of instant case is that FIR in question was registered at Police Station Kurali, District SAS Nagar on the written complaint moved by Balwinder Singh PPS the then Superintendent of Police (D), District SAS Nagar against Narayan Singh @ Chaura son of Channan Singh wherein, it was stated that Inspector Sanjeev Kumar, SHO, Police Station Civil Lines, Amritsar alongwith police party came to area of village Gharuan, Police Station Kharar for conducting raid with regard to disclosure statement suffered by Narayan Singh under Section 27 Indian Evidence Act, in FIR No. 201 dated 08.05.2010 under Sections 4 and 5 of 1908 Act, Section 13 of UAP Act wherein, he stated that he had kept concealed the arms and ammunition in the area of village Gharuan, Police Station Kharar. But when the police party came in the premises of CIA Kharar alongwith Narayan Singh for effecting recovery, he resiled from his statement. The said Narayan Singh disclosed the participation of petitioner who also got recovered his share of consignment of arms and ammunition in case FIR No. 24 dated July 25, 2010 under Sections 25/54/59 of Act and sections 17, 18, 19 and 20 of UAP Act registered at Police Station Special Operation Cell, Amritsar. Thus, petitioner has got nexus with Narayan Singh @ Chaura. Even otherwise, petitioner and his accomplices are

constantly working to promote terrorism all over the world and are active members in recruiting new members in whatever way possible. Thus, instant revision petition is liable to be dismissed.

5. This Court has given a deep thought to the afore-said rival submissions made by learned counsel for the parties and have meticulously gone through the records available.

6. Undoubtedly, FIR No. 201 dated May 08, 2010 under Sections 4 and 5 of 1908 Act and Section 13 of UAP Act was registered in Police Station Civil Lines Amritsar. During investigation of which police recorded the statement of Narayan Singh and further registered FIR No. 29 dated February 27, 2013, under Sections 3, 4 and 5 of 1908 Act, Section 25, 54, 59 of Act and Sections 10, 13, 18 and 20 of UAP Act.

7. The case of the prosecution is that when Narayan Singh was subjected to custodial interrogation, he disclosed the name of petitioner. He also allegedly disclosed that he along-with petitioner had constituted a Sikh Council and were working for Babbar Khalsa International. They had procured the consignment of arms and ammunition from Pakistan in February 2010 for spreading terrorism in India. But to the utter surprise, there is no evidence collected by investigating agency qua petitioner. Even, petitioner was subjected to custodial interrogation but despite that fact no recovery of any arms and ammunition could be unearthed by the investigating agency.

8. Similarly, there is no evidence either documentary in the shape of testimony of witnesses that petitioner is a member of Babar

Khalsa International, a banned organization. Except disclosure statement of Narayan Singh, there is no other evidence. This fact has also been considered by learned State counsel so far as the instant case is concerned. However, if any recovery of arms and ammunition has been effected from the present petitioner in connection with some other case/FIR, he cannot be made liable for the same in this case.

9. Similarly, there is also nothing on record to suggest that petitioner has made any statement or signed any paper showing his involvement in the unlawful activities. It is pretty settled that any disclosure statement made by co-accused is inadmissible especially, in the circumstances that there is no recovery in pursuance thereof.

10. Thus, taking the case of prosecution-respondent from any of angles it can be safely concluded that there is no evidence against present petitioner what to talk of any *prima-facie* evidence to frame charge for commission of offences detailed and described in impugned charge sheet as well as in impugned order dated October 24, 2013.

11. As a sequel to the afore-said discussion, it can be safely concluded that impugned charge sheet as well as impugned order dated October 24, 2013 are not sustainable in the eyes of law. Therefore, the same are set aside and petitioner stands discharged.

April 23, 2015
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(JASPAL SINGH)
JUDGE