

Criminal Miscellaneous No.M-10573 of 2013 (O & M)
Date of Decision: February 08, 2016

Amarinder Singh

..... PETITIONER

VERSUS

State of Punjab

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

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?

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PRESENT: Mr. Deepak Bhardwaj, Advocate, for the petitioner.

Mr. J.S. Sekhon, Assistant Advocate General, Punjab.

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Jaspal Singh, J

1. The instant petition has been preferred by Amarinder Singh (mentioned as Amarinder Singh @ Captain in FIR) for quashing FIR No.95 dated September 25, 2011 (Annexure P-2) under Section 25 of Arms Act, 1959, registered at Police Station, Urban Estate, Patiala as well as subsequent proceedings emanating therefrom.

2. The contention of learned counsel for the petitioner is that previously FIR No.91 dated September 21, 2011 under Sections 307, 148, 149 IPC and Sections 25 & 27 of Arms Act, has been registered at Police Station, Urban Estate, Patiala. In the said case, charge has already been framed against the petitioner under Section 25/27 of the Arms Act and also in addition to offence under Sections 307, 148, 149 IPC. However, a fresh FIR No.95 dated September 25, 2011 was registered under Section 25 of the Arms Act at the same police station at Patiala on the allegations that at the time of arrest of petitioner on September 25, 2011 in connection with FIR No.91 dated September 21, 2011, referred to above, was found in possession of a Pistol. The second FIR is not legally maintainable. More so, petitioner cannot be made to suffer twice for the commission of same offence.

3. On the other hand, learned State counsel has strongly opposed the petition submitting that since petitioner was arrested alongwith a Pistol without any permit or license on September 25, 2011, thus, a fresh case has rightly been registered against him. The instant petition is not legally maintainable and deserves to be dismissed.

4. After bestowing due consideration to the rival submissions made by learned counsel for the parties and on perusal of record, this Court is of the considered view that registration of subsequent FIR under Section 25 of the Arms Act is nothing but an abuse of the process of law as well as that of court.

5. Adverting to the facts of the case in hand, admittedly, the petitioner is already facing trial in FIR No.91 dated September 25, 2011 under Sections 307, 148, 149 IPC and Sections 25 & 27 of the Arms Act and registration of the second FIR under Section 25 of the Arms Act, especially in the circumstances that the alleged recovery of Pistol pertains to investigation of earlier FIR, no fresh FIR could be registered for the simple reason that he cannot be prosecuted twice for commission of a single offence. This is also a violative of Article 20(2) of the Constitution of India which reads as under:-

“No person shall be prosecuted and punished for the same offence more than once.”

6. In the light of what has been discussed above, instant FIR No.95 dated September 25, 2011 in respect of occurrence alleged to have taken place on September 21, 2011, regarding which, FIR No.91 dated September 21, 2011 was already registered, is not sustainable and is liable to be quashed. Accordingly, petition is allowed.

7. FIR No.95 dated September 25, 2011 (Annexure P-2) under Section 25 of Arms Act, 1959, registered at Police Station, Urban Estate, Patiala as well as subsequent proceedings emanating therefrom are quashed.

February 08, 2016
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(Jaspal Singh)
Judge