

CRM-M-17792-2015

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

CRM-M-17792-2015 (O & M)

Date of Decision: 23.09.2016

Piara Singh

... Petitioner

Versus

Gurnam Singh, Deputy Director, Directorate of Enforcement, Govt. of India
and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Mandeep Singh Sachdev, Advocate,
for the petitioner.

Ms. Seema, Advocate for
Ms. Ranjana Shahi, Advocate,
for respondent No.1.

INDERJIT SINGH, J.

Petitioner-Piara Singh through his son namely Pal Pabla has filed this petition under Section 482 Cr.P.C. against respondents-Gurnam Singh, Deputy Director, Directorate of Enforcement, Government of India and Smt. Ranjit Kaur, for quashing the order dated 14.05.2015 (Annexure P-1) passed by learned Sessions Judge, Jalandhar in criminal complaint case bearing No.COM-A No.2/2014 dated 11.03.2015, filed by respondent No.1 under Sections 5(5), 45(1) of the Prevention of Money Laundering Act, 2002, in case titled as 'Gurnam Singh vs. Pal Singh and others' and FIR No.131 dated 13.09.2014, registered at Police Station S.B.S.Nagar, District S.B.S.Nagar, under Sections 120-B, 177, 191, 206, 207 and 420 IPC,

whereby application filed by the petitioner for adjourning the case *sine die*

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on the ground that he is mentally not fit, was dismissed.

Notice of motion was issued in this case. Learned counsel for respondent No.1 appeared and contested this petition.

I have heard learned counsel for the petitioner as well as learned counsel for respondent No.1 and gone through the record.

From the record, I find that application was given on behalf of accused-Piara Singh for adjourning the case *sine die* on the ground that due to old age, he is suffering from mental problem and is not mentally fit for the purpose of facing trial; he was initially being under treatment of Rana Hospital, Nawanshahr and even was diagnosed of having psychiatric problem from Dayanand Medical College and Hospital, Ludhiana, which has given a certificate to this effect dated 27.01.2015. It is also stated that the petitioner is 90 years of age and it is a case of old history of acute memory loss and due to that reason, he is not considered to be mentally fit to face trial.

Learned Sessions Judge, while discussing the facts in detail and law, dismissed the said application vide impugned order dated 14.05.2015 (Annexure P-1).

At the time of arguments also, learned counsel for the petitioner mainly relied upon the OPD Patient Slip (Annexure P-5), in which it was mentioned that the petitioner was evaluated for memory test; he was evaluated on PGI-Memory test; the testing was completed in single session and he was cooperative for the evaluation; his comprehension was found to be fair; on PGI memory test, severe memory deficits were noticed in almost

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all the sub scale showing degenerative problem and that thus, on the basis of above findings, the index patient seems to be having significant memory deficits of degenerative type. It is also mentioned that findings should be correlated clinically.

Perusal of this OPD patient slip shows that it was nothing, but a report of memory test in which it is stated that there is severe memory deficit. It is also mentioned in this slip that the petitioner is 90 years of age. However due to memory deficit on account of old age, it cannot be held that the petitioner has become lunatic or is mentally unfit. There is no other document placed on record to show any problem to the petitioner. At the age of 90, there is possibility of loss of memory and memory being deficient, but only on this ground, the petitioner cannot be declared as mentally unfit or the lunatic. Furthermore, Sections 328 and 329 Cr.P.C. deal with inquiry etc. relating to lunatic and not mentally fit persons. Before initiating inquiry, the Court should be satisfied *prima facie* that the petitioner is lunatic or of unsound mind. Even the certificate relied upon by the petitioner, copy of which is Annexure P-5, it nowhere shows that the petitioner is lunatic or of unsound mind. Secondly, learned Sessions Judge has held that there is nothing at this stage to believe that the petitioner is of unsound mind. Furthermore, learned Sessions Judge has already discussed the facts of the case and stated that even upto 2014, the petitioner was operating his bank accounts.

Keeping in view the facts and circumstances of the present case, I find that at this stage, there is nothing *prima facie* to show that the

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petitioner is lunatic or of unsound mind. The impugned order passed by learned Sessions Judge, Jalandhar is correct, as per evidence and law. No illegality has been committed by learned Sessions Judge, Jalandhar while passing the impugned order. There is nothing at this stage to show for the satisfaction of this Court that the petitioner is lunatic or of unsound mind, therefore, there is no need to adopt the procedure given under Sections 328 and 329 Cr.P.C. Otherwise also, the petitioner has faced the trial before the Court and case is now ripe for disposal and it looks that this application has been filed with ulterior motive to delay the case.

Therefore, finding no merit in the present petition, the same is dismissed.

23.09.2016

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No