

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

219

CRM-M-24722-2013

Date of decision : 02.12.2016

VINEET BENIWAL

..... Petitioner

versus

STATE OF HARYANA & ORS

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Manish Soni, Advocate
for the petitioner.

Mr. Satish Saini, DAG, Haryana.

Mr. Sunil Kumar Nehra, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

By filing this petition the petitioner has sought two reliefs first quashing of the FIR No. 947 dated 31.12.2012 under Sections 61/01/14 of the Punjab Excise Act, 1914 and Section 294/510 IPC registered at P.S. City Sirsa, District Sirsa and secondly, direction for taking departmental proceedings against respondent No.3.

At the very outset regarding respondent No.3, the learned counsel for the petitioner states that departmental proceedings should be taken against respondent No.3.

Learned counsel for respondent No.3 states that respondent No.3 is already facing departmental proceedings.

In these circumstances, petition stands dismissed qua respondent No.3.

With regard to prayer for quashing of the FIR, the offences are stated to be under Sections 294, 510 IPC and 61/01/14 of the Excise Act. As per the FIR secret information was received that petitioner was making obscene gestures in public place in drunken condition.

Learned counsel for the petitioner has argued that as regards Section 294 of the IPC neither in the FIR nor in the statements under Section 161Cr.P.C, nor in the charge-sheet was it mentioned as to what was the act which was done by the petitioner so as to enable the Court to come to a conclusion whether it was obscene or not. He has relied upon the judgment of Bombay High Court in the matter of “**Aniruddha s/o Ganesh Pathak vs. State of Maharashtra and others** 2010 ALL MR(Cri) 22”. As regards Section 61/01/14 of the Excise Act learned counsel for the petitioner has argued that there is no forensic report regarding the amount of alcohol in the blood of the petitioner and consequently even the offence of drunkenness is not proved. As regards Section 510 of the IPC, the learned counsel for the petitioner states that since the offence of drunkenness is not proved, this section cannot be invoked against him.

Learned DAG on instructions from SI Krishan Kumar and the learned counsel for respondent No.3 state that they are not in a position to controvert these factual averments.

In these circumstances, the petition stands allowed and the aforesaid FIR is quashed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

December 02 , 2016
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No