

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

**CRM No.M-24118 of 2016 (O&M)
Date of Decision: August 02, 2016**

Gurmit Singh

...Petitioner

VERSUS

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.H.S.Bhullar, Advocate
for the petitioner.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.72 dated 29.06.2012 under Section 15 of the NDPS Act, registered at Police Station Kotwali, Kapurthala and all the proceedings arising therefrom.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that in the present case, FIR No.72 dated 29.06.2012 was recorded. As per prosecution version, police party headed by ASI Gurmeet Singh was holding a naka in the area of village Bahai. They saw a motorcycle without number plate coming from the side of Sultanpur Lodhi, on which two persons were riding. ASI signalled to stop it with torch light. The driver of the motorcycle got perplexed and tried to turn back and run away but the motorcycle was got stopped. However,

the pillion rider ran away while taking the advantage of darkness. In the meantime, one Mohit reached there and he was joined in the police party. The driver of the motorcycle disclosed his name as Balbir Singh. During search, two bags containing 35 kgs. poppy husk each were recovered and accused Balbir Singh was arrested. The trial was conducted by learned Sessions Court and accused Balbir Singh was acquitted by giving benefit of doubt vide judgment dated 16.01.2015. The present petitioner is the co-accused, who could not be apprehended.

It was admitted at the time of arguments by learned counsel for the petitioner that petitioner was declared proclaimed offender. From the record, I find that the petitioner has not challenged nor prayed for quashing of the proclamation order passed against him. He has filed the present petition for quashing of the FIR.

Learned counsel for the petitioner cited judgments passed by this Court in ***Jasvinder Singh vs. State of Punjab and another, 2013(1) RCR (Criminal) 310*** and ***Gurwinder Singh @ Mintu vs. State of Punjab, 2012(3) RCR (Criminal) 360***. I have gone through these cited judgments and the same having distinguished facts will not apply in the present case as facts of those cases are different.

Qua Balbir Singh, it is nowhere the finding that it is false case or planted upon the accused. Balbir Singh was acquitted by giving benefit of doubt. Therefore, only on the ground that co-accused has been acquitted, the FIR cannot be quashed.

Further, learned counsel for the petitioner argued that identity of the accused is not proved and nothing is to be recovered from him as he ran away from the spot. I find that all these facts are to be seen during the

investigation against the petitioner. It is possible that police official may arrange test identification parade. The recovery has already been effected. The fact regarding running away from the spot is mentioned but only on the ground that co-accused has been acquitted by giving benefit of doubt, present FIR cannot be quashed.

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

August 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No