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

CRM-M-34201 of 2015

Date of decision: September 26, 2016

S.I. Sukhchain Singh s/o Gurmej Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. P.S. Sekhon, Advocate for the petitioner.

Ms. Rimplejeet Kaur, AAG Punjab.

A.B. CHAUDHARI, J (Oral)

Rule. Heard forthwith with the consent of the learned counsel for the rival parties.

This is a petition for quashing the FIR No.70 dated 17.08.2012, under Section 58 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS') and Sections 193, 195, 196, 211, 120-B of Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Dharamgarh, District Sangrur. The petitioner is being prosecuted in the aforesaid FIR on the basis of the inquiry report dated 16.08.2012 by superior officer that the petitioner who was working as a SHO had launched a false prosecution against the accused Sukhchain Singh alias Chain son of Kashmir Singh resident of Village Daska. That inquiry was made as the accused had lodged a complaint to the police that the present petitioner has launched a false prosecution.

Inquiry was ordered by superior officer.

On 06.05.2011, DSP, Sub-Division, Dirbha submitted his report that the complaint against the petitioner was false and the recovery was indeed made from the accused person and therefore, there was no question of prosecuting the petitioner. Dissatisfied, one more inquiry was made and one more inquiry report dated 23.05.2011 was again submitted by another DSP, Sub-Division, Moonak who also stated that the recovery was made and the complaint against the petitioner was found false. Strangely enough, again on 16.08.2012, one more inquiry was made in which it was recommended that the prosecution be launched against the petitioner for falsely prosecuting the accused. Thus, the basis of lodging the FIR No.70 was the inquiry report dated 16.08.2012.

It is in this context, I have carefully gone through the inquiry report dated 16.08.2012. Reading of the entire report, which was the foundation of the registration of the FIR in question against the petitioner, clearly shows that the said report is as vague as it could be. It is inter alia, based on the happenings of the proceedings in the Court. The report dated 16.08.2012 which is found to be the foundation of the FIR in question, does not reveal any legal, proper and correct investigation to come to the conclusion about the complicity of the present petitioner. On the contrary, as stated earlier, the report is sans any substance. It, therefore, clearly appears that on the basis of the said report dated 16.08.2012, without proper application of mind and in ignorance to the earlier reports dated 06.05.2011 and 23.05.2011 by superior officers, the FIR was

mechanically lodged against the present petitioner.

That apart, the said proceedings in which the petitioner had prosecuted the accused has now come to an end and there is a judgment dated 19.12.2014 by the competent Court which has recorded a categorical finding that the petitioner had recovered the commercial quantity of smack from the conscious possession of the accused. That is a crystal clear finding which I have found from the judgment having gone through the same. Learned trial Judge has convicted the accused and sentenced him to undergo rigorous imprisonment of 10 years with fine, having found that the commercial quantity was recovered from the possession of the accused by the petitioner-S.I. Sukhchain Singh.

Thus, in the wake of the finding by the competent Court on facts and evidence, the petitioner cannot be allowed to be prosecuted in the way it has been done. Atleast now the competent Court has recorded the findings on evidence, therefore, the petitioner can no more be harassed in the way it is being done. I think that the proceeding in the FIR in question is clear abuse of process of law and the present petitioner-police cannot be allowed to be hounded. To repeat, the report dated 16.08.2012 was only the basis of lodging the FIR, which report in my opinion, is completely vague and such FIR cannot be allowed to stand.

Hence, this petition bearing CRM-M-34201 of 2015 is allowed.

FIR No.70 dated 17.08.2012, under Section 58 of NDPS

and Sections 193, 195, 196, 211, 120-B of IPC, registered at Police Station Dharamgarh, District Sangrur along with other consequential proceedings stands quashed and set aside.

(A.B. CHAUDHARI)
JUDGE

September 26, 2016

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No