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

**CRM-M-39605-2015
Date of decision : 23.05.2016**

SATNAM SINGH

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. S.L. Chander Shekhar, Advocate.
for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

The petitioner vide this petition filed under Section 482 Cr. P.C. seeks quashing of order dated 26.09.2015 (Annexure P-7) passed by Senior Superintendent of Police, Tarn Taran regarding arrest of Sepoy Satnam Singh-petitioner in FIR No. 14 dated 24.01.2011 (Annexure P-1) registered under Sections 302, 452, 427, 323 read with Section 34 IPC at Police Station Patti. The petitioner also seeks quashing of order dated 10.01.2013 (Annexure P-4) passed under Section 319 Cr. P.C. by the learned Judge, Special Court, Tarn Taran which according to the petitioner is without following dated 10.05.2011 (Annexure P-3) passed by the learned Sub-Divisional Magistrate, Patti whereby the petitioner was discharged and was not challaned. The petitioner also seeks quashing of proceedings arising out of the aforesaid FIR.

Heard.

The history of the case shows that the petitioner was initially arrested in FIR No. 14 dated 24.01.2011 under Section 302/452/427/ read

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with Section 34 IPC. The police subsequently presented the supplementary challan regarding Satnam Singh-petitioner wherein he was placed in column No. 2 stating that during the enquiry, he has found to be innocent, therefore, request was made to discharge him. Accordingly, the Sub-Divisional Magistrate, Patti vide order dated 10.05.2011 discharged the petitioner Satnam Singh. The perusal of order dated 10.01.2014 (Annexure P-4) shows that during the trial, the learned Additional Sessions Judge, while exercising the powers under Section 319 Cr. P.C. summoned Satnam Singh-petitioner to stand trial with the co-accused. Therefore, the non-bailable warrants of his arrest were issued. The petitioner against the said order approached this Court vide CRR-705-2013 which was withdrawn on 11.03.2013 as the counsel had stated that he wanted to raise all the objections with regard to the presence of the petitioner at the spot at appropriate stage. The petition was dismissed as withdrawn with aforesaid liberty.

The perusal of order dated 15.01.2014 shows that the trial against Satnam Singh-petitioner was separated by the learned Additional Sessions Judge, Tarn Taran on the ground that proceeding to declaring Satnam Singh-petitioner as proclaimed offender are pending and that it is delaying the trial against the other accused. Now, Senior Superintendent of Police, Tarn Taran, vide Annexure P-7 has written a letter/office order to the Commandant of the concerned Army Unit for arrest of the present petitioner-Sepoy Satnam Singh.

Learned counsel for the petitioner contends that once the petitioner was discharged by the Magistrate, the learned Additional Sessions Judge has no power to summon him and that the order of discharging has become final.

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Learned counsel for the petitioner also relies upon the authority
“Dharam Pal Vs. State of Haryana” 2013 (3) RCR (Criminal) 787.

I am of the view that after the discharge by the Magistrate, may be on any ground, the Sessions Court is fully competent to exercise powers under Section 391 Cr. P.C. which were in fact exercised. The revision challenging the said order was withdrawn with the liberty as stated above. Therefore, the said order of summoning the petitioner-Sepoy Satnam Singh under Section 319 Cr. P.C. has become final.

Since, the trial was separated by the Sessions Court, therefore, now apparently supplementary challan is to be presented. Therefore, the Senior Superintendent of Police, Tarn Taran has written a letter/office order to the commandant of the Army Unit where the present petitioner-Satnam Singh is posted, for his arrest.

I am of the view that the order summoning the petitioner under Section 319 Cr. P.C. to stand trial has already become final.

It being so, there is no illegality or perversity in the findings recorded in the judgment of the lower court. Hence, the present petition stands dismissed.

(KULDIP SINGH)
JUDGE

May 23, 2016
Suresh Kumar