

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.10052 of 2016
and
Criminal Misc. No.M-6218 of 2016

.....

Date of decision:28.3.2016

Harinderjit Singh Judge

...Petitioner

v.

State of Punjab and others

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. A.P.S. Deol, Senior Advocate with Mr. Daldeep Singh,
Advocate for the petitioner.

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Inderjit Singh, J.

Cr. Misc. No.10052 of 2016:

This application has been filed under Section 482 Cr.P.C. for placing on record the affidavit of the petitioner as directed in the order dated 23.2.2016. The affidavit of the petitioner is taken on record.

In the affidavit, Shri Harinderjit Singh Judge-petitioner has explained the facts regarding obtaining the photo copy of the charge-sheet and has shown regret and apology for his conduct.

Keeping in view the apology tendered in the affidavit, no further action is required to be taken in the matter.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.M-6218 of 2016:

This criminal miscellaneous petition has been filed by petitioner under Section 482 Cr.P.C. for quashing of the impugned order dated 28.1.2016 (Annexure-P.12) passed by learned Chief Judicial Magistrate, Kapurthala in case bearing Calendra No.6295 dated 3.11.2007 filed under Section 182 IPC, titled “State through Harinderjit Singh Judge Vs. Gurdial Singh”, vide which the evidence of the prosecution has been closed by order on the ground that police witnesses have not come to depose before the learned trial Court.

I have heard learned counsel for the petitioner and have gone through the record specially the impugned order dated 28.1.2016 passed by the learned Chief Judicial Magistrate, Kapurthala. The learned trial Court after discussing the history of the case in detail closed the evidence of the prosecution. It is in the order that the case relates to year 2007 and charges had been framed on 9.6.2010. The case had been received through transfer with direction that it was to be disposed of upto December 2015 by fixing preferably short dates and there was also direction that remaining cross-examination of applicant shall be concluded on 1.9.2015 or upto 10.9.2015. The cross-examination of Harjinder Singh was started on 1.9.2015, but it had been deferred for want of documents and he was cross-examined on 19.9.2015. On request of counsel, opportunity was given and on 29.10.2015 statement of HC Balbir Singh was recorded. Inspector Palwinder Singh Bajwa was stated to be admitted in a hospital, Ludhiana. A request of Harkamal Preet Singh Khak, DSP, for exemption was considered and allowed and witnesses were bound down for next date of hearing and

since then SI Parminder Singh and H.P.S. Khak, DSP had not appeared for the last five dates. It is also stated that out of these witnesses on the previous date of hearing, ASI Parminder Singh had been served, but he had not come present. It is also in the order that summons sent to PW Ranjit Singh Dhillon had been received back unserved despite last opportunity having been granted through SSP atleast five times. The learned Chief Judicial Magistrate held that right to speedy trial is a fundamental right of the accused under Article 21 of the Indian Constitution and the Court cannot be a witness to harass the accused for a long period of time.

In view of these facts, the learned Chief Judicial Magistrate closed the evidence of the prosecution by order. In my view, in the facts and circumstances of the present case, the order is perfectly correct and as per law. The petitioner or the prosecuting agency specially, the Investigating Officer of the case etc. cannot prolong the case intentionally to harass the accused. As it is discussed in the order that Calendra under Section 182 IPC was presented in the year 2007 and the notice of accusation etc. had been served in the year 2010 and since then for the last more than five years these proceedings are pending. Section 258 Cr.P.C. provides as under:-

“258. Power to stop proceedings in certain cases.- In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such

stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge.”

In view of the above provisions, in any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge. This provision under Section 258 Cr.P.C. also provides for speedy trial so that the accused cannot be harassed in the less serious offences that is which are triable as summons case.

Therefore, from the above discussion, I find no merit in the present petition and the same is dismissed.

March 28, 2016.

(Inderjit Singh)
Judge

hsp

NOTE: Whether to be referred to the Reporter or not: Yes/No