

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-811 of 2015

Date of decision: March 17, 2016.

Darshan Singh

... **Petitioner**

v.

State of Punjab and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Kirpal Singh, Advocate for the petitioner.

Mr. Ashish Sanghi, Deputy Advocate General, Punjab.

Mr. Ravi Gakhar, Advocate for respondent No.2.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral):

Short reply by way of affidavit of respondent No.2 filed in Court today, is taken on record.

The petitioner seeks quashing of FIR No.52 dated 1.11.2011, registered under Section 336 IPC, Police Station Naya Gaon, SAS Nagar, Mohali along with all the consequential proceedings arising therefrom.

The case is stated to be still under investigation. The present case was registered on the statement of Mohan Singh – respondent No.2, who has stated that on 1.11.2011 at about 11.30 a.m., 4-5 young boys were standing over the land adjoining the land of Bhag Singh. They were holding rifles and dandas and were playing with each other. Out of them, one young Sardar boy fired two shots in the air from 12 bore gun which he was holding in his hand. Thereafter, the said persons after throwing their weapons went towards the hills. He can recognize them.

Today, Mohan Singh, who has come present in the Court, has made a statement that no occurrence took place in his presence nor any body ran away from the place of occurrence in his presence. No firing incident occurred in his presence. He has no objection if the impugned FIR is quashed.

On the other hand, State Counsel has stated that one gun registered in the name of the petitioner was recovered from the spot. Two empty and 12 live shells were also recovered.

It comes out that the FIR was registered on 1.11.2011. Now more than four years have elapsed but the case is still under investigation. It is not the case of the State that pellets or wads were also recovered from the spot. The complainant states that no occurrence took place in his presence nor any body fired shots in the area in his presence. No body was injured. It is doubtful whether merely firing in the air will be covered under Section 336 IPC. The story of boys leaving weapons at the spot and running away is also not convincing since there was no reason for them to leave weapons at the spot after firing in air while playing. Otherwise also, there are no chances of conviction even if the challan is presented.

It being so, FIR No.52 dated 1.11.2011, registered under

Section 336 IPC, Police Station Naya Gaon, SAS Nagar, Mohali, along with all the consequential proceedings arising therefrom, stands quashed.

The petition is accordingly allowed.

March 17, 2016.
kadyan

[Kuldip Singh]
Judge