

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

CRM-M-35579-2015
Date of decision: 24.10.2017

Dilbag Singh

.... Petitioner

versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Rakesh Kumar, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab.

Hari Pal Verma, J.(Oral)

Prayer in this petition filed under Section 482 Cr.PC is for quashing of case FIR No.82 dated 03.08.1996 registered under Section 188 IPC at Police Station Division No.4, Jalandhar, District Jalandhar and all consequential proceedings.

The allegations against the petitioner are that he along with others was raising vocal slogans and protesting against the Government despite prevention proceedings under Section 144 Cr.PC having been being imposed.

Learned counsel for the petitioner submits that FIR in question was registered in the year 1996 and till date even investigation in the case has not been completed. Speedy trial is a fundamental right as enshrined under Article 21 of the Constitution of India. He has placed reliance upon the judgment of Apex Court in ***Lokesh Kumar Jain vs. State of Rajasthan,***

2013(3) RCR (Crl.) 763 to contend that speedy investigation and trial, both are enshrined in Criminal Procedure Code and right to speedy trial is guaranteed under Article 21 of the Constitution of India. Speedy trial is applicable not to only actual proceedings in Court but also include within its sweep the preceding in the police investigation as well. Reliance has also been placed on another judgment of Apex Court passed in **Ramanand Chaudhary vs. State of Bihar, 1994(2) RCR (Crl.) 491** to contend that where the prosecution against the accused is pending for more than 13 years, it is a fit case to quash the prosecution.

No reply has been filed by the State. However, State counsel on instructions from ASI Arun Kumar submits that even the record pertaining to the said FIR is not traceable.

Having heard learned counsel for the parties and considering the fact that speedy trial is a fundamental right as provided under Article 21 of the Constitution of India as held by the Hon'ble Apex Court in the case of **Lokesh Kumar Jain vs. State of Rajasthan, 2013(3) RCR (Crl.) 763** and in the case of **Ramanand Chaudhary vs. State of Bihar, 1994(2) RCR (Crl.) 491** this Court find that fundamental rights of speedy trial is being violated. In the case of Lokesh Kumar (supra), the Hon'ble Apex Court has held that when the proceedings in FIR are pending for about 13 years and delay has been caused due to inaction on part of the complainant-department, the Constitutional guarantee of speedy investigation and trial under Article 21 of the Constitution of India is thereby violated. Therefore, the Hon'ble Apex Court has quashed the proceedings.

Further, the State has not come out with any material which may substantiate the allegations made in the FIR, therefore, this Court finds that as the FIR is pending since the year 1996 and investigation thereof has not been completed so far, the present is a fit case for quashing the FIR.

Accordingly, the present petition is allowed and the FIR No.82 dated 03.08.1996 registered under Section 188 IPC at Police Station Division No.4, Jalandhar, District Jalandhar and all consequential proceedings arising therefrom are quashed qua the petitioner.

(HARI PAL VERMA)
JUDGE

24.10.2017
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1. Whether reportable?	Yes
2. Whether speaking/Non-speaking?	Yes/No