

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

CRM No.M-37683 of 2016 (O&M)

Date of Decision: March 06, 2017

Amit Kumar and another

...Petitioners

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.K.Khunger, Advocate
for the petitioners.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for issuance of a direction to respondents to pay a reasonable compensation to the petitioners regarding their illegal detention in case FIR No.57 dated 10.06.2016 under Sections 500, 501, 294 and 120-B IPC registered at Police Station Bahav Wala, District Fazilka.

I have heard learned counsel for the petitioner and have gone through the record.

At the time of arguments, learned counsel for the petitioners argued that petitioners were granted bail by this Court and were released on bail. Later on, offence under Section 295-A IPC was added in the FIR and the petitioners were again arrested. It is admitted by learned counsel for the petitioners that no bail was granted under Section 295-A IPC by this Court

and the offence under Section 295-A IPC is a non-bailable. If any offence

is added in the FIR later on, the accused can be arrested for that non-bailable offence which was made out and added in the case later and that cannot be held as illegal detention. There is no such finding by any of the Court that accused have been wrongly arrested by the police or it amounts to illegal detention. Therefore, the petitioner is not entitled to any compensation on this ground.

Furthermore, even if it is presumed that it is illegal detention then the petition under Section 482 Cr.P.C. is not maintainable because the finding of fact is required whether it is illegal detention or not. Both the parties are to be given opportunities to lead evidence and then Court is also to decide the quantum of compensation, keeping in view the facts and circumstances of that case. Therefore, the fact whether the petitioners are entitled to compensation and if so, to what extent, is to be determined only on the basis of the evidence.

Resultantly, finding no merit in the present petition, the same is dismissed.

March 06, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No