

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

CRM-M-38484-2016 (O&M)

Date of decision: February 20, 2017.

Joginder Pal

... **Petitioner**

v.

State of Punjab and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri D.K. Bhatti, Advocate for the petitioner.

Mrs. Rajni Gupta, Additional Advocate General, Punjab.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith with the consent of Learned Counsel for the parties. The State Govt. seeks time to have copy of the petition and to file reply. In my opinion, there is no need to grant any time since the stand of the State is already on record and the matter is trifling.

Perused the entire record, so also the stand taken in the written statement that was filed by the State in CRM-M-8222-2009 decided by this Court by order dated 4.8.2009, which reads thus:-

“The case has now been recommended to be sent as untraced and untraced report will be submitted in the court of learned Illaqa Magistrate immediately. As such the petitioner has no cause to invoke the extra-ordinary jurisdiction of the Hon'ble High Court by filing the present petition and the same is liable to be dismissed on these grounds above.”

It is not in dispute that the petitioner was charged for

dereliction of duty in the assembly elections by not collecting the election material from the Election Office in the year 1997. The FIR was accordingly registered against him. Thereafter, the District Magistrate-cum-District Election Officer issued a letter on 3.2.1998 addressed to the Police Station Officer, which reads thus:-

“From

*District Magistrate-cum-District Election Officer,
Jalandhar*

To

*The S.H.O.
Police Station, Division No.3,
Jalandhar*

No.:_____ PGO-3-98

Subject: Absence from election duty.

*Ref.: Relating to the subject of PJA-No.97 dated 06.02.97,
Returning Officer 29, Jalandhar Cantt.-cum-D.O.R.J., Jalandhar.*

Sir,

In this case, the request of Joginder Pal, Superintendent, Executive Engineer, Panchayati Raj, is accepted and the case is withdrawn, FIR No.20/97 dated 08.02.1997 under section 134 of Representation of People's Act. The further action in FIR No.20/97 dated 08.02.1997, under section 134 of the R.P. Act shall not be taken.

*Sd/-
District Magistrate-cum-District
Election Officer, Jalandhar*

No.IS/9, PGA-98/3 Dated: 03.02.98”

From the above, it is crystal clear that the reason given by the petitioner for his absence for election duty at the relevant time was found to be proper by the District Magistrate and accordingly the stand was taken in the aforesaid proceedings by the Govt. Acting on the said stand of the Govt., this Court decide the petition bearing CRM-M-8222-2009 and the order reads thus:-

“K.C. Puri, J.(Oral)

Reply by respondent No.1 to 3 filed. It be taken on record.

In the reply, it is submitted that cancellation report is being submitted.

So, at this juncture, learned counsel for the petitioner does not want to press the petition.

Therefore, the petition stands dismissed being not pressed.

*Sd/-
(K.C. Puri)
Judge”*

It is in the light of the above order of this Court, which has become final and conclusive, there is no go except to quash the impugned FIR. The upshot of the above discussion is that the following order is inevitable:-

ORDER

(i) CRM-M-38484-2016 is allowed;

(ii) FIR No.20 dated 8.2.1997, under Section 134 of the Representation of People Act, 1951, registered at Police Station Division No.3, Jalandhar along with all consequential proceedings is quashed and set aside.

**[A.B. Chaudhari]
Judge**

February 20, 2017.
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No