

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44042-2017 (O&M)
Date of decision: 21.12.2017

Harbhajan Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. M.L. Saggar, Sr. Advocate with
Mr. Sunny Saggar, Advocate and
Mr. Rohit Joshi, Advocate for the petitioner.

Mr. A.S. Gill, Sr. DAG, Punjab.

Mr. K.S. Sodhi, Advocate for respondent No.3.

ARVIND SINGH SANGWAN, J.

CRM-41025-2017

Prayer in this application is for placing on record copy of the receipt dated 08.12.2017 and the order dated 08.12.2017 passed by JMIC-II, Jalandhar as Annexures P-8 and P-9.

For the reasons stated in the application, same is allowed.
Annexures P-8 and P-9 are taken on record.

CRM stands disposed of.

CRM-M-44042-2017

Prayer in this petition is for quashing of the complaint i.e. CIS No.CH0-1637/2015, CNR No.PBJL03-005819-2011 titled as State Vs. Dharam Singh and others, Kalendra dated 03.05.2012 filed under Section 182 of the

Indian Penal Code ('IPC' for short) as well as for quashing of the order dated 01.07.2017, vide which the petitioner was declared as proclaimed offender in proceedings arising out of FIR No.133 dated 17.07.2009 under Sections 406/420 IPC, registered at Police Station Adampur, District Jalandhar.

Vide order dated 22.11.2017, the petitioner was directed to appear before the trial Court on 18.12.2017 and the trial Court was also directed to release the petitioner on interim bail subject to furnishing fresh bail/surety bonds and payment of costs of Rs.50,000/- with the District Legal Services Authority, Jalandhar.

Counsel for the petitioner has placed on record the receipt (Annexure P-8) and the order passed by the trial Court (Annexure P-9) to show that the directions given by this Court have been complied with. Counsel for the petitioner submits that after cancellation of FIR No.133 dated 17.07.2009 registered under Sections 406/420 IPC, Police Station Adampur, District Jalandhar, the impugned kalendra under Section 182 IPC was submitted against 08 persons, including the petitioner. It is further submitted that out of the aforesaid 08 accused persons, 04 persons namely Dharam Singh, Jarnail Singh, Shiv Lal Panch and Gurmukh Singh have already expired and 03 other co-accused namely Paramjit Singh, Santosh Kumar and Dalbir Singh have faced the trial and vide judgment dated 27.09.2017 (Annexure P-6), the trial Court has acquitted the aforesaid 03 other accused persons on the ground that the impugned kalendra has been filed in the Court after a lapse of three years and six months i.e. much after expiry of period of limitation. It is submitted on behalf of the petitioner that he was not residing in India since 2009 and at the time when the kalendra under Section 182 IPC was submitted, he was not

present in India and therefore, the proceedings under Section 82 Cr.P.C. were initiated without following the proper procedure, as neither any summons were served on the petitioner nor the proclamation was made at the ordinary place of residence of the petitioner. It is further submitted that since it has been held by the trial Court that kalendra under Section 182 IPC submitted against the accused persons was hopelessly time barred and three other co-accused have already been acquitted, only the petitioner is left out, after his prosecution, which is misuse of process of law.

Considering the fact that the petitioner has appeared before the trial Court and he has paid the amount of costs of Rs.50,000/-, the order dated 01.07.2017, declaring the petitioner as proclaimed offender, is set aside. In view of the fact that three co-accused of the petitioner have already been acquitted vide judgment dated 27.09.2017 on the ground that the kalendra under Section 182 IPC has been submitted after a lapse of three years and six months and the same is hopelessly time barred, no purpose will be served in allowing the prosecution of the petitioner any further.

In view of the above, this petition is allowed and complaint i.e. CIS No.CH0-1637/2015, CNR No.PBJL03-005819-2011 titled as State Vs. Dharam Singh and others and Kalendra dated 03.05.2012 filed under Section 182 IPC are also ordered to be quashed qua the petitioner.

[ARVIND SINGH SANGWAN]
JUDGE

21.12.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No