

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

**CRM No.M-8026 of 2016 (O&M)
Date of Decision: December 15, 2017**

Kamaljit Kanda

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Harpreet Singh Rakhra, Advocate
for the petitioner.

Ms.Simranjeet Kaur, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Mandeep S. Sachdev, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondents State of Punjab and Vinod Kumar for quashing the FIR No.240 dated 01.10.2013 under Sections 457, 380, 381 and 411 IPC, registered at Police Station City Kapurthala, District Kapurthala as well as the challan under Section 173 Cr.P.C. along with all subsequent proceedings arising out of the same.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the record, I find that FIR has been got registered by Vinod Kumar by stating that he along with his family members had gone to Haridwar and there was nobody at home. On 30.09.2013, they came back at about 7.00 p.m., then after opening the lock of the outer gate, they saw that cupboards and almirah were broken and all the things were littered here and there. As per the FIR, ₹96,000/- in cash and gold ornaments including mobile phone etc. were found stolen.

During investigation, present petitioner Kamaljit Kanda has been nominated by the co-accused. Learned counsel for the petitioner argued that no recovery has been effected in the present case from the petitioner. There is no evidence of any type connecting the petitioner with the crime except the disclosure statement of Hari Om co-accused. I have also gone through the disclosure statement of Hari Om made to the police, wherein, he stated that in the night of 29/30.09.2013, he along with three unknown persons had committed theft of cash and jewellery from the house of his employer at Friends Colony, Kapurthala, out of which, he got recovered ₹4000/- and gold ornaments weighing 25 tolas have been sold to Kamaljit Kandal and the money is yet to be received. Except this disclosure statement, there is no cogent evidence on record.

It is also admitted by learned State counsel as well as learned counsel for respondent No.2 that there is no other evidence on record except this disclosure statement of the co-accused. Section 25 of the Evidence Act provides that any confession made by the accused before the police while in custody, is inadmissible in evidence. Otherwise also, the accused will not come to the witness box to depose these facts.

In view of the above discussion, I find that as it is case of no

evidence qua the present petitioner, therefore, proceedings in the FIR in question qua the petitioner, are nothing but abuse of process of law.

Therefore, finding merit in the present petition, the same is allowed. FIR No.240 dated 01.10.2013 under Sections 457, 380, 381 and 411 IPC, registered at Police Station City Kapurthala, District Kapurthala along with all subsequent proceedings arising therefrom, are hereby quashed, qua the petitioner.

December 15, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No