

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

CWP 12667 of 2017

Date of decision: 1.6.2017

Ajaib Singh

Petitioner

vs.

State of Punjab and others

Respondent

Present: Mr. SS Siao, Advocate.

M.M.S.BEDI,J.

The petitioner was investigating the matter against Gurmit Singh in the year 2003, in which Gurmit Singh was able to seek quashing of the charges in Cr. Rev. No. 975 of 2004 decided on 25.5.2011 (Gurmit Singh vs. State of Punjab). While discharging Gurmit Singh, the High Court had observed that the prosecution will be at liberty to prosecute Gurmit Singh under the Drugs and Cosmetics Act, 1940 (for short 'the Act) or any other law. Gurmit Singh had filed a civil suit for recovery of Rs. 4.00 lacs as damages on account of malicious prosecution but his suit appears to have been dismissed.

Through the instant writ petition, the petitioner seeks a direction for launching prosecution against Gurmit Singh. On query having been put to the counsel for the petitioner regarding reason for filing the present writ petition, counsel for the petitioner has submitted that accused Gurmit Singh though is liable to the prosecuted in accordance with law but he is unnecessarily harassing the petitioner by filing frivolous litigation for damages. It has been informed that the petitioner has filed an appeal against the order of the civil Court.

I have considered the contention of counsel for the petitioner

for issuance of a writ in the nature of mandamus against the official respondents to prosecute Gurmit Singh under the Act as per the observations made in the order passed by this Court on 25.5.2011. The Act is a complete Code in itself. Certain offences are required to be tried summarily and some offences are cognizable and non bailable as per provisions of Section 36-A(c) of the Act. Even the petitioner has got legal protection under the provisions of law against accused Gurmit Singh. The writ jurisdiction cannot be invoked after a lapse of six years as the provisions of Section 468 Cr.P.C. might prohibit taking of the cognizance. Even a direction cannot be issued at this stage, requiring the filing of complaint by the Drugs Inspector as the question of limitation might arise by issuing any direction in the present case. The petitioner cannot be permitted to achieve indirectly, which cannot be achieved directly.

Without prejudice to the right of the petitioner to pursue his appeal or to take any legal action at his own level against Gurmit Singh, the writ petition is dismissed as not maintainable.

June 1, 2017
TSM

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether Reportable

Yes/ No