

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

CWP No.428 of 2014  
Date of decision : 05.04.2017

Kuldeep Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.**

Present: Mr. Jagjit Gill, Advocate for the petitioner.

Mr. Rajbir Singh, AAG, Haryana.

Mr. K.B. Raheja, Advocate for respondent No.2.

Mr. Rajesh Sethi, Advocate with  
Ms. Tanvi Jain, Advocate for respondent No.3.

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**AMIT RAWAL, J. (Oral)**

Grievance of the petitioner in the present writ petition is that on 22.04.2005, he along with his father namely Balbir Singh and one uncle Leela Singh were alleged to have involved in the NDPS case on the premise that they have grown poppy husk in their field.

As per the enquiry conducted by DSP, petitioner was found innocent. In fact, the name of the petitioner was kept in column No.2 yet the trial Court framed the charges against him but petitioner did not challenge the same on the basis of wrong advice of defence counsel. Even report under Section 173 Cr.P.C. also does not envisage anything against the

petitioner. The trial Court convicted the petitioner. However, this Court acquitted the petitioner and in this process, he remained behind bar for a period of 5 ½ years.

The petitioner's grievance is that he has not been named in report under Section 173 Cr.P.C. thus he sought compensation against the Defence Lawyer, District Attorney, much less, Police Officer/State.

As regard the fault of the Police Officer/State, I am of the view that once there is no report of the police against the petitioner, they cannot be held to be responsible. As regards the relief qua Defence Lawyer, or the District Attorney, remedy, if any, for the petitioner was to file a civil suit for damages by leading independent evidence as order of acquittal in view of judgment rendered by Hon'ble Supreme Court in *Rudul Sah Vs. State of Bihar and another*, AIR 1983 Supreme Court 1086(1) is not sufficient for the purpose of entitling a person to the damages. The judgment relied upon by the learned counsel for the petitioner is as per the facts of the case.

No doubt the writ petition for the purpose of compensation against the Government Officer would have been maintainable but as facts noticed above, prima facie there is no fault of the police in the absence of any report against the petitioner.

Petitioner have to knock the door of the Civil Court under Section 9 of CPC by filing suit for damages by affixing the minimum court fees with liberty to affix the balance court fees on proving the claim but not in the manner and mode as indicated above. The petitioner is advised to avail the remedy.

The period spent herein shall be condoned in case such remedy

is availed within a period of one month from the date of receipt of certified copy of the order as writ petition for granting the compensation against the private respondents i.e. Defence Lawyer and subsequent District Attorney would not have been maintainable.

With the aforementioned observations, present writ petition stands disposed of.

**05.04.2017**

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**(AMIT RAWAL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**