

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

CRM-M-1508-2018

Date of decision:-17.1.2018

Jaideep Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.D.S. Gandhi, Advocate
for the petitioner.

H.S. MADAAN, J.

By way of moving the present petition, the petitioner Jaideep Singh craves for quashing of FIR No.27 dated 1.2.2012, under Sections 307/452/506/34 IPC and 25 and 27 of Arms Act, registered at Police Station City, Tarn Taran and other proceedings arising therefrom, besides praying for quashing of order dated 6.2.2016 vide which the petitioner was declared as proclaimed offender, further praying that proceedings in the trial Court be stayed.

Heard.

In para No.2 of the petition in hand, the petitioner has reproduced the relevant facts of the FIR, which are taken as such and the same are as under:

“Statement of Surjit Singh, s/o Jaswnt Singh, caste Jatt,

resident of village Johal Raju Singh, P.S. City, Tarn Taran, aged around 55 years stated that I am a resident of above mentioned address and working as an Agriculturist. Today, I was present in my house and the time was around 3 O' clock. That Surjan Singh s/o Gurmej Singh, caste Jatt, resident of Khara by carrying pistol, Surinder Singh @ Gandhi, s/o Sadhu Singh, Jatt, Dilbag Singh @ Baga, s/o Karam Singh, Jatt, both residents of Thathi, whom I already know due to having a residency of neighbor village and along with one unidentified Hindu young man were came inside my house and the unidentified Hindu young man raised a lalkara by saying that shoot Surjit Singh. Do not let him go today. I ran towards the Grid door and closed the same. In the meanwhile, Surjan Singh with the intention to kill, fired four gunshots from his pistol towards me. I escaped myself from the same by hiding behind the wall and out of the four gunshots, one was hit on the outer wall of my house's courtyard and the remaining three were hit on the internal wall of room by passing through the grid door. That my wife Sarabjit Kaur raised alarm by saying bachao-bachao, then by hearing the noise of my wife as well as the gunshots, lots of persons gathered outside the house. Then, all the aforesaid culprits along with their respective weapons ran from the spot by taking their motorcycles. The four dead gunshots are present at the spot in my house. The reason of vindictiveness is that I was

going to Tarn Taran some days ago. Then, my motorcycle was collapsed with Surjan Singh, who was coming forward to me. We both abused each other on that day. The persons passing from there were stopped us and Surjan Singh was went back to his house by giving me threats of life. Due to the same, Surjan Singh s/o Gurmej Singh, caste Jatt, resident of Khara along with Surinder Singh @ Gandhi, s/o Sadhu Singh, Jatt, and Dilbag Singh @ Baga, s/o Karam Singh, Jatt, both residents of Thathi and one more unidentified Hindu young man, whom I can identified if came in front by having a conspiracy tried to kill me by firing four gunshots on me.”

After registration of the FIR, the matter was investigated. The names of Surinder Singh @ Gandhi, Dilbag Singh @ Baga and Jaideep Singh (present petitioner) had also cropped up being involved in the incident. However, while filing challan in the Court, all three of them were found to be innocent and their names were placed in column No.2. During trial, an application under Section 319 Cr.P.C. was filed for summoning of Surinder Singh @ Gandhi, Dilbag Singh @ Baga and Jaideep Singh (present petitioner) as additional accused since they had been specifically named by PW1 – Surjit Singh during his statement in the Court. The said application was accepted by learned Additional Sessions Judge, Tarn Taran vide order dated 29.3.2014 and all three of them were ordered to be summoned through non-bailable warrants to face trial under Sections 307, 452 IPC read with Section 34 IPC.

However, Jaideep Singh (present petitioner) could not be arrested and was declared proclaimed offender vide order dated 6.2.2016 after passing of statutory period of 30 days after effecting of proclamation under Section 82 Cr.P.C. against him. Now he is seeking quashing of FIR.

It is to be noted that the simple purpose for registration of FIR is to set the criminal machinery into motion and it may not contain all the necessary details since most of times, it is lodged in hurry. It is only during the investigation that one can come to know about the exact details of the incident, the persons who had participated therein and role played by each one of them. Furthermore, even if some persons whose names figured as culprits during the investigation are given clean chit by the police, then the Court during trial can certainly summon those, if their involvement is found to be there from the depositions available on the record. The FIR in question can certainly be not said to be misuse of process of law or not disclosing any offence. Simply for the reason that name of the petitioner is not there in the FIR is no ground to quash the same. Furthermore, he is relying upon the judgment vide which two main accused, namely, Surjan Singh Surinder Singh @ Gandhi had been acquitted by the Court for the reason that the complainant – injured had not supported the case of prosecution and had turned hostile.

Learned counsel for the petitioner has referred to authority **Sudo Mandal @ Diwarak Mandal Versus State of Punjab, 2011(2) R.C.R.(Criminal) 453** by a Division Bench of this Court to the effect that proceedings against the absconding proclaimed offenders had been quashed in exercise of power under Section 482 Cr.P.C. observing that it

would be empty formality to send them for trial on same unbelievable and untrustworthy evidence, which would ultimately lead to their acquittal.

However, I find that no ground is there to quash the order declaring the petitioner as proclaimed offender. In terms of the ratio of the authority *State of Madhya Pradesh Versus Pradeep Sharma, 2014(1) R.C.R.(Criminal) 269*, when an accused had absconded and declared as a proclaimed offender in terms of Section 82 Cr.P.C., he is not entitled to pre arrest bail. Here the accused has been declared as proclaimed offender but admittedly he has not surrendered before the trial Court and has straightway filed this petition challenging the order declaring him as proclaimed offender, when there is no illegality and infirmity is found to be there.

As regards the authority referred to by learned counsel for the petitioner, the same do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

Keeping in view the totality of facts and circumstances of the case, no ground is made out to quash the FIR and order dated 6.2.2016.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

17.1.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No