

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

**CRM-M No.16952 of 2017
Date of Decision: 23.02.2018**

Tarlochan Singh

.....Petitioner

Vs

State of Punjab and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Gaurav Kalsi, Advocate for
Mr. H.S. Batth, Advocate
for the petitioner.

Mr. R.S. Thind, D.A.G., Punjab.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this petition for quashing of FIR No.86 dated 04.08.2016 registered under Section 409 IPC at Police Station Harike District Tarn Taran along with all consequential proceedings arising therefrom.

[2]. Brief facts culminating in filing the present petition are that in the intervening night of 31/01.08.2016, the petitioner was deputed with the Rapid Rural Response System on night duty. After completing his duty, he was going to his house in village Naushera Pannu on a motorcycle, then on the way his service

revolver fell down. The petitioner came to know about the same, when he started changing his uniform at home. He immediately went back on the motorcycle to the place of his journey to the house. Despite making hectic search, the service revolver could not be found. Petitioner informed his superiors regarding loss of service revolver and the FIR in question was lodged against him on 04.08.2016 on the ground that one reliable informer appeared before the ASI in police station and informed that the petitioner, who was on night duty at village Nathupur Highway under Rapid Rural Response System has lost his service revolver on the way to his village. On receipt of information, it was found that the petitioner was absent from 02.08.2016 without giving any information regarding his service revolver. The service revolver i.e. .38 bore along with 30 cartridges was issued to the petitioner. The information given by the special informer was treated to be reliable and the FIR was registered. After registration of the case, petitioner was granted anticipatory bail and was directed to join the investigation vide order dated 23.08.2016 passed by the Addl. Sessions Judge, Tarn Taran.

[3]. Learned counsel for the petitioner submitted that lodging of FIR under Section 409 IPC in respect of loss of revolver is patently illegal and the same could have entailed in invoking of provisions in terms of Rules 6.21 and 6.22 of Punjab

Police Rules, 1934 or any departmental proceedings. Departmental proceedings were initiated against the petitioner and he was punished with an imposition of penalty of forfeiture of one year of service. Price of the revolver has also been recovered from the petitioner.

[4]. I have considered the submissions made by learned counsel for the parties.

[5]. It is a conceded position that during departmental inquiry, cost of the revolver was assessed to be Rs.2,000/- and amount of Rs.36/- for each cartridges was assessed and the petitioner has already deposited the same. Since the petitioner has already been punished departmentally under relevant Rules, therefore, initiation of criminal proceedings for the same cause of action in my considered view would be illegal.

[6]. Concededly, the revolver in question has not been misused by any person after its loss. Non-furnishing of information about the loss of revolver in time by the petitioner was considered against the petitioner and punishment of forfeiture of one year of service has already been ordered by the competent authority.

[7]. The parties are *ad idem* that the punishment imposed upon the petitioner has already been executed in terms of his

service revolver. Since the petitioner was proceeded departmentally and after being punished in accordance with law, in my considered opinion should not be taxed twice for the same misconduct. Even otherwise, ingredients of offence in question are not attracted.

[8]. In view of facts and circumstances of the case of its own nature, I deem it appropriate to allow the present petition. Consequently, FIR No.86 dated 04.08.2016 registered under Section 409 IPC at Police Station Harike District Tarn Taran and all consequential proceedings undertaken in pursuance thereof are hereby quashed. Necessary consequences to follow.

February 23, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No