

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

**Criminal Misc. No.M-29441 of 2017
Date of Decision: 17.11.2018**

Hardev Singh alias Rambo

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 seeking directions from this Court to amend/alter/correct the date as regards the alleged offence inasmuch as 10.06.2014 be read as 16.06.2014 in the chargesheet dated 29.11.2015 (Annexure P-3), whereby charge has been framed against the petitioner along with other co-accused.

Learned counsel for the petitioner has argued that in the FIR No.122 dated 10.06.2014 under Sections 21/29 NDPS Act, registered at Police Station, Maqsudan, Jalandhar, the alleged recovery was effected from the petitioner on 16.06.2014, as per recovery memo dated 16.06.2014 (Annexure P-2). He submits that despite the alleged recovery having been effected on 16.06.2014, the trial Court has framed the charge as if the recovery was effected on 10.06.2014. In fact, the recovery on 10.06.2014 was effected from other co-accused. Therefore, the recovery so made from

the petitioner should have been shown to have been effected on 16.06.2014.

Learned State counsel, on instructions from ASI Angrej Singh, submits that this fact is required to be considered during the course of trial and no amendment/correction is required at this stage, as in case this Court orders correction/amendment in the date of recovery, under the garb of the present petition, the petitioner may get the trial reopened, which would further cause delay in trial.

Faced with this situation, learned counsel for the petitioner undertakes that the petitioner shall not lead any fresh evidence or would not seek re-trial in case such correction is allowed and the present petition shall remain confined to the correction in charge no.1 with regard to date of recovery from the petitioner i.e. 16.06.2014 instead of 10.06.2014.

I have heard learned counsel for the parties.

The recovery memo dated 16.06.2014 reads as under:-

“In front of the witnesses mentioned hereunder, Hardev Singh alias Rambo son of Makhan Singh aforestated in Police custody, as per his confession memo. By walking ahead on the Kapurthala to Kartarpur Road, Stand Brahampur, the Gate existing thereby, at the back side of the Bus Stand, by putting the earth sand aside, got recovered heroin kept in plastic polythene by his own hands. From the recovered heroin, two samples weighing 5/5 gms were taken out separately, kept in separate plastic boxes and parcels were prepared. On weighing the remaining heroin it came to 230 gms. The same was put in the same plastic polythene black colour and thereafter in one plastic box and parcel was prepared. Thereafter, I SI/SHO affixed my seal namely BS on all the three parcels and took the same as evidence vide separate

memo in police possession. The sample seal was prepared separately and Form 29 M was completed at the spot. The seal after use was handed over to ASI Manjit Singh 57/JAL. Memo recovery of heroin was completed.

1. Sd/- ASI Manjit Singh No.57/JAL Police Station Maqsudan, Distt. Jalandhar.
2. Sd/- Head Constable Balwinder Singh, No.64 Police Station Maqsudan, Distt. Jalandhar.

Sd/- Baljinder Singh
Station House Officer
Police Station Maqsudan,
Jalandhar
Dated: 16.06.2014”

Considering the recovery memo dated 16.06.2014 (Annexure P-2), which is not in dispute, as same is signed by the concerned SHO, this Court finds that charge no.1 framed against the petitioner inasmuch as the date of recovery dated 16.06.2014 instead of 10.06.2014 is required to be corrected/amended.

Ordered accordingly.

The present petition is disposed of.

However, it is made clear that mere correction regarding the date of recovery in the charge i.e. 16.06.2014 instead of 10.06.2014, shall not give any right to the petitioner to lead any fresh evidence or to seek re-trial.

November 17, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No