

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31899 of 2017

DATE OF DECISION: AUGUST 7, 2018

JATINDER SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB & OTHERS

...RESPONDENTS

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

PRESENT: MR. PRABHINDER SINGH PUNIA, ADVOCATE
FOR THE PETITIONER.

MR. SURINDER PAL SINGH TINNA, ADDL.A.G., PUNJAB.

MR. LAKHWINDER SINGH MANN, ADVOCATE
FOR RESPONDENT NO.2.

HARI PAL VERMA, J.(ORAL)

The petitioner has filed the present petition under Section 482 Cr.P.C. for quashing the complaint filed by respondent No.2, the summoning order and the order passed in the revision petition having been dismissed by learned Addl. Sessions Judge, Fatehgarh Sahib vide order dated 20.7.2017.

The basic ground seeking quashing of the complaint filed by the respondent-complainant is that on the alleged date of incident, the petitioner was not present at the place of occurrence as he is working in the Indian Army and was posted at Patiala. Learned counsel has argued that the Army records suggest that the petitioner remained present at the place of his working.

On the other hand, learned counsel for the respondent No.2 while making reference to Annexure R-1 submitted that family members of

the petitioner have stated that the petitioner has reached Chanrthankala Hospital, as the younger brother of the applicants (in the representation) was badly injured and received serious head injuries.

However, learned counsel for respondent No.2 has argued that plea of 'alibi' can only be pleaded during the course of trial, as it is a defence available to the accused.

Having heard counsel for the parties, it is noticed that the solitary ground on which the present complaint is sought to be quashed is that on relevant date, the petitioner was not present at the scene of occurrence. However, this Court finds that the plea of alibi is available to the petitioner only during the course of trial as a defence and the petitioner may lead his evidence accordingly. Therefore, this Court does not find any reason to interfere in the order passed by the trial Court.

Accordingly, the present petition is dismissed.

However, as regards plea of the counsel for the petitioner that the petitioner has been falsely implicated in the case and is working in Indian Army and now stands posted at Hisar, therefore, would be troublesome for him to come all the way from Hisar to Fatehgarh Sahib as the nature of duties does not permit him for frequent appearances, it being a private complaint filed by the respondents, this Court finds that the prayer of grant of exemption from appearance is genuine.

Accordingly, let the petitioner move an application before the trial Court seeking exemption and the trial Court shall grant him exemption subject to the following conditions:-

1. that his Advocate shall appear on his behalf on each and every date of hearing and the evidence recorded in his absence would be acceptable to him;
2. that undertaking of his counsel to appear on each date of hearing to defend his case;
3. that he will not dispute his identity and he will appear before the trial Court as and when directed by the Court.

August 7, 2018
Gulati

(HARI PAL VERMA)
JUDGE

Whether Reportable : Yes

Whether Speaking/Reasoned : Yes/No