

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

205

CRM-M-32719-2017 (O&M)  
Date of decision: 19.11.2018

Amrik Singh

..... Petitioner

Versus

State of Punjab and Another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. R.S. Bains, Advocate for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

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**RAMENDRA JAIN, J. (ORAL)**

Through this petition under Section 482 Cr.P.C., petitioner has laid challenge to quashing of FIR No. 12 dated 10.01.2001 (Annexure P-1) registered under Sections 452, 436, 427, 148 and 149 IPC (Section 120-B IPC added later on) registered at Police Station Division No. 5, Ludhiana Saran, District Faridabad and all subsequent proceedings thereof.

Pawan Kumar, ASI Gurmit Singh, the then Head Constable, along with many other persons were booked and convicted for committing the murder of the son of the petitioner in the year 2001 in case FIR No. 10 dated 08.01.2001, registered at Police Station Civil Lines, Ludhiana (Division No. 5) Punjab under Sections 302, 323, 336 read with Section 148, 149 IPC and Section 25/26/29/30 of the Arms Act. Since co-accused

Gurmit Singh @ Pinky was a police personnel, therefore, as a counter blast

to the aforesaid murder case registered against him, he got lodged FIR Annexure P-1 against the petitioner and all his family members so as to put pressure upon him to compromise in the murder case of his son. However, Gurmit Singh @ Pinky. Pawan Kumar, S/o Mam Raj and their associates remained unsuccessful as they were convicted after holding trial inasmuch as they were held guilty and convicted under Sections 302 IPC and 27 of the Arms Act vide judgment dated 30.09.2006 and awarded life imprisonment vide order of sentence 17.10.2006. The said judgment Annexure P-2 attained finality as Gurmit Singh lost his battle upto Hon'ble Supreme Court.

In the aforesaid FIR (Annexure P-1) police after thorough investigation into the allegations against petitioners and his family members) filed a cancellation/untraced report Annexure P-7/T on 15.07.2002, which was accepted by the learned Magistrate on 09.10.2002 (Annexure P-9) after no objection from Complainant Pawan Kumar-respondent No. 2.

Surprisingly, after a lapse of 15 years from the date of registration of the said FIR Annexure P-1 and after 14 years from the filing of the untraced report and acceptance of the same by the learned Magistrate vide order Annexure P-9, the police challenged the petitioner and all family members under Sections 452, 436, 427, 148, 149 and 120 IPC (added later on) for burning his house and house hold articles in the year 2016.

Impugned final report 173 Cr.P.C. (Annexure P-10) has been filed, ignoring its earlier untraced report dated 15.07.2002 (Annexure P-7) filed in Court and its acceptance vide order Annexure P-9 dated 09.10.2002. Therefore, it is not understandable and very astonishing that

when the police, in the year 2001-02, did not find the complicity of the petitioner and his family members and consequently filed untraced report Annexure P-7/T which was accepted vide order Annexure P-9, how it after lapse of 15 years could file final report under Section 173 (2) Cr.P.C. against them.

Perusal of final report Annexure P-10 shows that no new evidence came before any of the investigation officers against the petitioner and his family members about their complicity in the alleged commission of crime, during investigation, pursuant to the direction of this Court in CRM-M-23504 of 2003 filed by mother of Inspector Gurmit Singh @ Pinky through SP/Crime Wing, Chandigarh. Perusal of the said order Annexure R-1 shows that no direction was given to the police authorities to arrest the petitioner and his family members and file final report under Section 173 (2) Cr.P.C. Simple direction was given to look into the grievance of Gurmit Singh and his mother Harbans Kaur.

Be that as it may, pursuant to said order, Annexure R-1 fresh statements of Gurmit Singh and his mother Harbans Kaur were recorded on 15.09.2003. Thereafter, police remained silent till the year 2017 and all of a sudden, arrested the petitioner, his family members without any evidence against them and filed final report under Section 173 (2) Cr.P.C., against them.

Consequently, the order of Sh. Bachan Singh Randhawa, Superintendent of Police, Crime Wing, Chandigarh, if any, directing the SSP, Division No. 5 for arrest of the petitioner, his family and to file a final report is completely illegal, arbitrary and unsustainable in the eyes of law.

He has exceeded his jurisdiction vested in him and as such is liable for

some departmental action, so that he may not commit any such lapse in future.

The final report under Section 173(2) Cr.P.C. (Annexure P-10) is completely silent as to what evidence had come against the petitioner and his family members about their complicity in the alleged commission of crime.

SHO Vinod Kumar, who filed the said report under Section 173 (2) Cr.P.C., tried his level best and was out and out to help his colleague ASI Gurmit Singh to take revenge from the petitioner and his family members for getting ASI Gurmit Singh convicted in a case of murder of son of petitioner. Consequently, he, even lost sight of the fact that two accused, mentioned in the said report, namely Mr. R.S. Walia and Mr. R.S. Bains, are Senior Advocates of this Court. For them he observed that he will join them in investigation and thereafter whatsoever would be the position, take appropriate action against them without adhering to the fact that the said advocates were never named by Gurmit Singh and his mother Harbans Kaur. Such observation and exercise so to be adopted by the SHO Vinod Kumar, on the face of it, is patently illegal.

In view of discussion above, the impugned FIR No. 12 dated 10.01.2001 (Annexure P-1) final report (Annexure P-10), contrary to the earlier untraced report filed in the year 2002 filed after 17 years are quashed with the direction to the DGP and Home Secretary Punjab, whosoever is authorised in this behalf to take appropriate action against Mr. Vinod Kumar, the then SHO, Division No. 5, Ludhiana including departmental action in accordance with law as far as possible within three months from today. Compliance report in this regard be submitted to the

registry of this Court.

Copy of this order be sent to Home Secretary and Director  
General of Police, Punjab for taking appropriate action and compliance.

**November 19, 2018**

*Poonam (II)*

**( RAMENDRA JAIN )  
JUDGE**

**Whether speaking/reasoned Yes/No**

**Whether Reportable Yes/No**