

CRM-M-3704-2017

Date of Decision : 14.05.2018

Ashwinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI**Present:** Mr. S.S. Dinarpur, Advocate for
Mr. Apoorv Sangwan, Advocate
for the petitioner.

Mr. A.A. Pathak, Addl.A.G., Punjab.

P.B. BAJANTHRI, J. (ORAL)

Petitioner has sought for quashing of FIR No.31 dated 22.05.2014 under Sections 21, 22, 61, 85 of the NDPS Act, 1985 registered at Police Station Ganaur, District Patiala (Annexure P-1) alongwith all the subsequently proceedings including the summoning order dated 17.12.2016 passed by the Judge, Special Court/ASJ, Patiala and charge sheet dated 16.01.2017 vide Annexure P-9 and P-10, respectively.

2. Petitioner was studying in B.A. Part-II in Punjab University at the relevant point of time. Petitioner is stated to be falsely implicated under the NDPS Act on the score that police personnel had recovered smack and intoxicating tablets and the smack was put in the pockets of his pants and intoxicating tablets were put on the dashboard of his car by some persons, thereafter, they proceeded to file an FIR. The matter was investigated by the Superintendent of Police and finally a cancellation report on 08.09.2014 and it was approved by the Senior Superintendent of Police, Patiala on 09.09.2014 and was presented before the Special Court on 18.09.2014 for discharging petitioner, whereas cancellation report was rejected by the Judge Special Court,

on 17.12.2016 and proceeded to frame charge on 16.01.2017.

3. Learned counsel for the petitioner submitted that petitioner's father-Surjit Singh was falsely implicated in identical manner wherein he had been acquitted on 31.03.2005 in case FIR No.8 dated 06.01.2005 under Section 18 of the NDPS Act registered at Police Station Shahabad in the Sessions Case No.151 of 2005. The then Superintendent of Police, Smt. Bharti Arora falsely implicated petitioner's father-Surjit Singh which is evident from Annexures P-8 and P-9.

4. Learned counsel for the petitioner further submitted that perusal of the electronic evidence like entry of car in the toll plaza, it is evident that in order to falsely implicate the petitioner, ASI Karnail Singh hatched a plan. Jaskiranjit Singh Teja, Superintendent of Police who prepared a report wherein he has opined that petitioner had been falsely implicated. He has also relied on electronic evidence like call details of the Karnail Singh (ASI) and also toll plaza video footage. Judge Special Court, Patiala did not accept the cancellation report on 17.12.2016 and also not analyzed the cancellation report submitted by the Superintendent of Police and no appropriate reasons have been assigned except stating that Investigating Officer has not visited at the spot of recovery to assess the possibility of recovery etc. He has also not appreciated the electronic evidence which has been taken into consideration by the Investigating Officer and what has been stated by the Judge Special Court reads as under:-

“In the case in hand, FIR has been registered after recovery of 10 gram ‘Smack’ and ‘1220 Intoxicant Tablets’ from Ashwinder Singh in the presence of recovery witness. Accused has been declared innocent by SP Jaskiranjit Singh Teja only by conducting inquiry holding that someone has kept the intoxicant tablets and smack in the clothes of the accused and his car, when he has kept the same in the

car and went to take bath. Even in that inquiry investigation officer and recovery witness have specifically ascertained the recovery from Ashwinder Singh. So, in the ratio of judgments cited Supra and from the police report under Section 173 (2) Cr.P.C., statement of investigation officer, this Court is of the opinion that there is sufficient grounds to frame the charge against the accused Ashwinder Singh. As such, the cancellation report is declined and this court took the cognizance. Challan has already been presented in this court. It is ordered to be registered as NDPS Act case. The hearing of this case is adjourned to 07.01.2016 for consideration on charge. ”

In view of these factual aspects false case has been registered against the petitioner.

6. Counsel for the respondent submitted that there is no infirmity in the order dated 17.12.2016 of the Judge Special Court. Recovery from the petitioner has been taken into consideration which suffice to frame charge against the accused-Ashwinder Singh.

7. Heard the learned counsel for the parties.

8. It is evident from the petitioner's father's case that there is some element to implicate the petitioner falsely since the police personnel did not succeed in implicating the petitioner's father in the year 2005-2007. In identical manner, police personnel intend to implicate the petitioner. In this regard, detailed cancellation report has been prepared by the Superintendent of Police. The Judge Special Court has not appreciated things like petitioner's father was implicated falsely and he has been acquitted in that case. Smt Bharti Arora was subject to certain proceeding which was subject matter of litigation before this Court in CR No.2194 of 2008 which was dismissed on 14.10.2010 (Annexure P-9). Therefore, there is some element in fixing the petitioner and falsely implicate him in NDPS matter. So also perusal of electronic evidence cited in the cancellation report.

9. Perusal of the cancellation report indicates that petitioner has been implicated falsely and the same has been appreciated by the Judge Special Court except stating that he did not agree with the cancellation report on the score that Investigating Officer had not visited at the recovery spot and also statement of Superintendent of Police, Jaskiranjit Singh Teja dated 17.12.2016 to the extent that "I have not visited the spot of the recovery in the present case. I have also not got recorded statement of the any person from the spot of recovery as there is not inhabitant recovery residing at the place."

10. In view of these facts and circumstances, the Judge Special Court has not appreciated the cancellation report with reference to the electronic evidence like video footage at Toll Plaza and call details relating to ASI Karnail Singh. Accordingly, FIR No.31 dated 22.05.2014 alongwith all subsequent proceedings including summoning order dated 17.12.2016 and charge sheet dated 16.01.2017 stands quashed.

11. Petition stands allowed with a direction to the State to pay an amount of Rs.50,000/- to the petitioner due to falsely implicated him in a case due to which he had undergone mental stress.

12. State Government is hereby directed to finalise departmental proceedings initiated against ASI Karnail Singh as recommended by SP Jaskiranjit Singh Teja, within a period of three months from the date of receipt of this order.

Relist this matter on 05.09.2018 to ascertain whether the aforesaid direction is complied or not?

(P.B. BAJANTHRI)
JUDGE

14.05.2018

Neha

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No