

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39925-2018 (O&M)

Date of Decision:- 30.11.2018

Taranjit Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vijay Rana, Advocate for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

The petitioner seeks quashing of FIR No. 137 dated 6.8.1988, under Sections 216, 216-A, 212 of IPC and Sections 3 and 4 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (for short 'TADA Act'), Police Station Banga, the then District Jalandhar now District Nawanshahr and also for setting aside order dated 7.12.1992, passed by learned Additional Judge, Designated Court, Jalandhar declaring the petitioner as a proclaimed offender.

The FIR was lodged pursuant to receipt of a secret information to the effect that certain hardcore terrorists who are proclaimed offenders in several cases namely Gurnek Singh @ Neka son of Pritam Singh, resident of Mohrammpur, P.S.Nakodar; Paramjit Singh @ Pamma son of Sohan Singh, Jat, resident of Khan Khana; Baldev Singh, Swaran Singh, Jat,

resident of Poonian; Jatinder Singh @ Neeta son of Dilbag Singh, resident of Majari, used to come to the accused Taranjit Singh @ Tarna son of Gurbax Singh and they used to keep the robbed articles as well as arms and ammunition with Taranjit Singh who is extending shelter to them by giving food, clothes and lodging and also incites them to make “Khalistan” and to commit more robberies and that in case a raid is conducted then huge quantity of arms and ammunition and other stolen articles can be recovered.

Learned counsel while assailing the FIR has submitted that the FIR in the present case was lodged at the instance of ASI whereas as per provisions of Section 20-A of TADA Act, no case can be registered in respect of offence under the TADA Act, except with prior approval of District Superintendent of Police and that since in the present case no such prior approval was ever accorded by District Superintendent of Police, therefore the FIR could not have been recorded and consequently, the entire proceedings stands vitiated.

I have considered the aforesaid submission. The provisions, which the learned counsel is referring to are provided in Section 20-A of the TADA Act, which read as follows:

- “20-A. Cognizance of offence** – (1) Notwithstanding, anything contained in the Code, no information about the commission of an offence under this Act shall be recorded by the police without the prior approval of the District Superintendent of Police.
- (2) No court shall take cognizance of any offence under this Act without the previous sanction of the Inspector-General of Police, or as the case may be, the Commissioner of Police.”

However, the aforesaid Section 20-A of the Act, came to be inserted in the Act w.e.f. 22.5.1993. In other words, the aforesaid provisions were not existing when the present FIR was lodged. Consequently, the petitioner cannot claim any benefit on account of the aforesaid provisions which were inserted much after lodging of the present FIR. The contention raised in this regard does not carry any weight and is hereby repelled.

The contents of the FIR *prima-facie* disclose commission of offences under Sections 216, 216-A, 212 of IPC and Sections 3 and 4 of the TADA Act. In these circumstances, I do not find any ground for quashing of the FIR.

As regards the impugned order dated 7.12.1992, declaring the petitioner as a proclaimed offender, nothing has been shown to this Court as to how the impugned order is not sustainable in law and as to what was the illegality in the procedure adopted prior to passing of the impugned order.

I do not find any merit in the petition and the same, as such, is dismissed.

November 30, 2018

mohan

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No