

CRM-M-46583 of 2018

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

CRM-M-46583 of 2018
Date of Decision: 30.10.2018

State of Haryana

....Petitioner

Versus

Rampal

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Deepak Sabherwal, Addl. A.G., Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for quashing order dated 26.03.2018 (Annexure P-4), whereby revision filed by the respondent was accepted and order dated 23.08.2017 (Annexure P-2) of the trial Court, charge-sheeting the respondent under Sections 153, 153(A)(1), 153B(1), 504, 505(1) read with Section 120-B IPC was set aside.

Briefly, on 12.07.2016 ASI Jai Singh, on secret information, apprehended followers of the respondent, namely, Balwan, Ramphal, Balbir, Mamta Devi, Meshar Devi, Sonu Devi, Saroj Rani, Santosh, Rajbir Singh, Sumit, Anil and Ram Kumar along with vehicle No.HR-39-B-7368, while they were provoking the general public to disturb public peace and tranquillity to pressurise State Government for release of respondent from jail. The aforesaid assailants were also distributing books and pamphlets to the general public to achieve their aforesaid purpose to breach public peace and cause fear in the

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minds of public at large. While filing final report under Section 173(2) Cr.P.C. against the aforesaid accused under aforesaid Sections, adding respondent also as co-accused under Section 120-B IPC. Therefore, he was charge-sheeted as such by the trial Court vide order dated 23.08.2017 (Annexure P-2).

Being aggrieved, respondent filed revision, challenging the said order of the trial Court. Vide impugned order dated 26.03.2018 the revisional Court after hearing the parties, set aside the aforesaid order and discharged the respondent on the ground that on the alleged date, he was in custody. There was no evidence with the police that any of the aforesaid accused had ever come in contact with the respondent in or outside the jail and that he had provoked them to disturb public peace and on his instructions the aforesaid persons were disturbing public peace and tranquillity.

Learned State counsel *inter alia* contends that order of the trial Court framing charge against the respondent along with other accused is well-reasoned being based on appreciation of evidence collected by the police. Therefore, revisional Court ought not to have set aside the same, taking into account confessional statement of the respondent.

Having given anxious consideration to the submissions made by learned State counsel, this Court finds the instant petition completely devoid of any merit for the simple reason that as on date, the investigating agency has no evidence with it that the respondent being in judicial custody ever came in contact with the aforesaid

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persons and directed them to breach public peace and tranquillity to put undue pressure on the Government to release him from jail.

Alleged confessional statement of the respondent, which is not signed by him, is hit by Sections 25 and 26 of the Evidence Act, inasmuch as the investigating officer failed to produce any evidence that he ever interrogated the respondent in jail. No attendance record of the jail authorities, proving that aforesaid persons had ever visited the jail and had contacted the respondent has been produced on record. In the absence of any such evidence, this Court is not inclined to differ with the well-reasoned order of the revisional Court, discharging the respondent.

In view of the discussion above, petition is dismissed.

October 30, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No