

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-2673-MA-2018

Date of decision: 13.02.2019

State/Union of India

..... Applicant

Versus

Ravi Soni

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Nitin Kumar, Advocate for the applicant.

RAMENDRA JAIN, J. (ORAL)

Through this application under Section 372 read with Section 378(4) Cr.P.C., prayer has been made for grant of Special Leave to file accompanying appeal against the judgment of acquittal dated 13.10.2017, rendered by the learned Chief Judicial Magistrate, Sirsa.

Briefly, respondent-Ravi Soni, was booked in case FIR No. 5 dated 02.11.2013 under Section 3 RP (UP) Act, Police Station Railway Police Force, Sirsa, on the allegations that he was found stealing two bags of fertilizers (DAP) within the Railway boundary, without any lawful authority. After holding trial, the respondent was acquitted for want of sufficient evidence against him.

Learned counsel for the applicant *inter alia* contends that the trial Court tried the respondent as, if, it was a FIR case, though no FIR could be registered by Railway Police Force. Therefore, the entire proceedings conducted by the trial Court, acquitting respondent have to

be set aside. In support of his contentions, learned counsel has relied upon a judgment of Hon'ble Apex Court in **Balakishan A. Devidayal Vs. State of Maharashtra and State of M.P. Vs. Hari and others, 1980(4) SCC_600.**

Having given thoughtful consideration to the submissions of learned counsel for the applicant, this Court finds the instant application completely devoid of any merit, inasmuch as, on 02.11.2013, FIR No. 5 dated 01.11.2013, under section 3RP(UP) Act, was registered by the Railway Police Force, Sirsa against the respondent. Even, final report under Section 173(2) Cr.P.C. was filed by the police against the respondent. Thereafter, its copy was also supplied to him in compliance of the provisions of Section 207 Cr.P.C. Therefore, it does not lie in the mouth of learned counsel for the applicant that the trial Court had not committed any irregularity or illegality, while trying the respondent in an FIR case.

As far as submission of learned counsel for the applicant that Railway Police Force was not empowered to register FIR, in view of judgment of Hon'ble Apex Court in **Balakishan A. Devidayal's case (supra)**, is concerned, to the knowledge of this Court, there is no bar for the Railway Police Force to register a case, if, any accused is apprehended red handed, stealing Railway Property.

In the instant case, the respondent had already suffered a lot and faced protracted trial for around 3/4 years. The offence committed by him is of stealing two bags of fertilizers (DAP). Therefore, his conviction, now, would be disproportionate to the offence. More so, this

Court has gone through the impugned judgment and find no illegality or perversity in the same, inasmuch, as no independent witness was joined or associated by the Railway Police Force, during investigation or enquiry and that the applicant failed to prove the case property allegedly recovered from the respondent.

The facts and circumstances of the judgment relied upon by learned counsel for the applicant are quite distinguishable from the facts of instant case. Therefore, no benefit whatsoever of the same can be given to it. More so, every case has its own peculiar facts and circumstances.

In view of the discussion made, the instant Criminal Miscellaneous Application being meritless is dismissed.

February 13, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No