

COCF No.1030 of 2019

Date of Decision: 14.03.2019

Ramesh Kumar @ Babby

....Petitioner

Versus

Sarabjit Singh Dhaliwal and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. D.N. Ganeriwala, Advocate
for the petitioner.

NIRMALJIT KAUR, J. (ORAL)

The present contempt petition is filed for non-compliance of order dated 09.10.2018, vide which, the application of the petitioner seeking a direction to the jail authorities to correct the jail custody certificate in order to set off the period undergone by the accused during trial, was disposed of with a direction to the successor Court of learned Additional Sessions Judge, Amritsar to checkup the judicial file and mention the undergone period as per the judicial file and thereafter, issue the correct custody certificate, if necessary.

Admittedly, learned Additional Sessions Judge, Amritsar after taking into consideration the judicial file has passed order dated 11.01.2019, recorded a finding that the accused was arrested on 27.05.2007 and his bail bonds were furnished on 15.12.2008 and therefore, he remained in custody only from 27.05.2007 till 15.12.2008 in the FIR No.114 dated 27.05.2007, registered under Sections 21/29 NDPS Act of Police Station Beas, Amritsar.

The petitioner has filed the present contempt petition on the ground that the Additional Sessions Judge, Amritsar refused to take into consideration the fact that the petitioner was in custody during trial and therefore, as per order dated 04.12.2013, passed by the Additional Sessions Judge/Exclusive Court, Amritsar, the trial was required to be set off the period against the terms of sentence i.e. from 27.05.2007 to 04.12.2013, which the Additional Sessions Judge, Amritsar has not taken into consideration.

The arguments of learned counsel for the petitioner deserves to be rejected.

No contempt is made out. As per order dated 09.10.2018 passed by the Division Bench of this Court, the Additional Sessions Judge, Amritsar was to checkup the judicial file and mention the undergone period as per the judicial file and thereafter, issue the correct custody certificate, which the Additional Sessions Judge, Amritsar has duly done. The fact that there is no error in the order passed by the Additional Sessions Judge, Amritsar recording the sentence undergone by the petitioner in the FIR No.114 dated 27.05.2007, registered under Sections 21/29 NDPS Act of P.S. Beas, Amritsar, is evident in view of the admission by learned counsel for the petitioner that the petitioner was convicted in another case in the year 2007 for a period of twelve years and he was undergoing sentence in the said case and now has been released after completing his sentence in the said case. Thus, although the petitioner's bail bonds were accepted in the present FIR No.114 dated 27.05.2007, registered under Sections 21/29 NDPS Act of P.S. Beas, Amritsar but he was not released on bail because he

year 2007. Thus, in the present case of FIR No.114 dated 27.05.2007, registered under Sections 21/29 NDPS Act of Police Station Beas, Amritsar, the petitioner remained in custody only from 27.05.2007 till 15.12.2008 as stated by Additional Sessions Judge, Amritsar in his order dated 11.01.2019. Thus, the present contempt petition being misconceived, is dismissed with costs of ₹10,000/-.

(NIRMALJIT KAUR)
JUDGE

14.03.2019
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No