

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

CRM-M-27017-2017 (O&M)
Date of decision : 05.09.2019

Baldev Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S. Jagpal, Advocate for the petitioners.

Mr. Surinder Pal Singh Tinna, Additional A.G. Punjab.

Mr. Balbir Singh Sewak, Advocate for respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

Question which arises for determination is “whether accused who have been acquitted after trial in a criminal complaint case, can later on be prosecuted for same allegations in the FIR case which was of course lodged before the complaint was filed?”

The answer to the aforesaid question is in Section 300 of the Code of Criminal Procedure. Same reads as under:-

“300. Person once convicted or acquitted not to be tried for same offence.—(1) A person who has once been tried by a Court of competent jurisdiction for an offence and

convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 221, or for which he might have been convicted under sub-section (2) thereof.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 (10 of 1897)

or of section 188 of this Code.”

Learned counsel for respondent No.2, although opposed vehemently but could not draw attention of the Court to any distinction in the averments made in criminal complaint and FIR.

In view of the aforesaid, the present petition is allowed.

Accordingly, FIR No.350 dated 14.10.2009 registered under Sections 324/323/148/149 of the Indian Penal Code at Police Station Samana, District Patiala alongwith all other consequential proceedings arising thereto, are quashed.

05.09.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No