

IOIN CRA-D No. 196-DB of 2008

Sukhbir Lal alias Tony and another vs State of Punjab

Present Mr. Lakhwinder Singh Sidhu, Advocate with
 Mr. Harpreet Singh, JMIC, Amritsar- contemner.

 Mr. H. S. Grewal, Additional Advocate General, Punjab.

 This Court vide judgment dated 21.12.2018 had directed the State to produce the convict on 14.1.2019 to be heard on quantum of sentence under Section 304 Part-I IPC.

 On 14.1.2019, learned counsel for the State on instructions imparted to him by ASI Rachhpal Singh, Police Station, Kathu Nangal, District Amritsar, submitted that the application was moved before the Judicial Magistrate First Class, Amritsar, namely Mr. Harpreet Singh, on 12.1.2019 for release of convict Sukhdev Raj @ Sukhdev Lal to be heard on the quantum of sentence. The fact of the matter is that the learned Magistrate has not passed any order on the application. It is in these circumstances, the notice was issued to Mr. Harpreet Singh, Judicial Magistrate First Class, Amritsar, on 14.1.2019. In sequel thereto, Mr. Harpreet Singh, Judicial Magistrate First Class, Amritsar, filed his personal affidavit dated 19.1.2019. Para nos. 2 and 3 of the affidavit read as under:-

 “2. That during performance of such duty by deponent, copy of Order dated 21.12.2018, passed by the Hon'ble High Court in CRA-D No. 196-DB of 2008 (O&M) was neither put up before deponent for compliance nor the same was otherwise received by deponent through any channel. It was only on dated 16.01.2019, deponent received the copy of the same along with show cause notice under reference.

3. That on 12.01.2019 neither ASI Rachhpal Singh nor any police official from Police Station Kathu Nangal came in the Court of deponent. Even no application with copy of the order dated 21.12.2018 passed by the Hon'ble High Court for release of convict Sukhdev Raj @ Sukhdev Lal qua the matter in question was moved before deponent by any police official. Even such application was also not presented or forwarded by the Assistant Public Prosecutor for the State on that day before deponent, being Duty Magistrate. So, there was no occasion for deponent for non compliance of the order of the Hon'ble the Court.”

Thereafter, vide order dated 25.1.2019, the State was permitted to file the rebuttal affidavit to the averments made by Mr. Harpreet Singh in his affidavit.

The Deputy Superintendent of Police, Majitha, District Amritsar (Rural) filed a detailed affidavit in compliance to order dated 25.1.2019. The Deputy Superintendent of Police, Majitha, as per averments made in the affidavit, requisitioned the entire record relating to the instant matter. He recorded the statements of SI Tarsem Singh, SHO, Police Station, Kathu Nangal, HC Rajinder Kumar, Naib Court of Police Station, Kathu Nangal. He also obtained the call detail records as well as mobile tower location of ASI Rachhpal Singh. It transpired that SI Tarsem Singh, SHO, Police Station, Kathu Nangal, received a phone call from the concerned Law Officer of the Advocate General, Punjab, on 11.1.2019 in the evening. He apprised SI Tarsem Singh, SHO, Police Station, Kathu Nangal, about the order dated 21.12.2018. SI Tarsem Singh lodged the DDR No. 25 dated 11.1.2019 at 6.30 PM in the Roznamcha. SI Tarsem Singh directed ASI Rachhpal Singh to produce the convict in this Court on 14.1.2019.

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A specific averment has been made in para 5 of the affidavit that ASI Rachhpal Singh of Police Station, Kathu Nangal, had proceeded to the Court of Mr. Harpreet Singh, JMIC (Duty), Amritsar to obtain the production warrant of convict Sukhdev Raj @ Sukhdev Lal on 12.1.2019 vide DDR No. 13 dated 12.1.2019 at 10.30 A.M. ASI Rachhpal Singh moved an application dated 12.1.2019 seeking production warrant of Sukhdev Raj @ Sukhdev Lal for 14.1.2019 before Mr. Harpreet Singh, JMIC (Duty), Amritsar. The orders passed by this Court were also annexed with the application. In the statements of ASI Rachhpal Singh as well as Naib Court Rajinder Kumar, it has come that ASI Rachhpal Singh had presented the application on 12.1.2019 seeking production warrant of Sukhdev Raj @ Sukhdev Lal before Mr. Harpreet Singh, JMIC (Duty).

Mr. Harpreet Singh, JMIC (Duty), Amritsar, perused the application dated 12.1.2019 as well as the judgment dated 21.12.2018. He directed ASI Rachhpal Singh that since the Court has directed the State to produce the convict on 14.1.2019, it is the duty of the Department of the Home or DGP, Jails, Punjab, to produce the accused, namely, Sukhdev Raj @ Sukhdev Lal, before this Court. However, Mr. Harpreet Singh declined to consider the application dated 12.1.2019 moved by ASI Rachhpal Singh. According to the call detail records and mobile tower location, ASI Rachhpal Singh was present in the Court premises from 12.51 hours to 14.33 hours on 12.1.2019.

Confronted with the affidavit, on the previous date of hearing, Mr. Harpreet Singh, Judicial Magistrate First Class, Amritsar, admitted that in fact, the application was produced before him on 12.1.2019, but he did not pass any orders on the application and tendered unconditional and unqualified apology.

The stand taken by ASI Rachhpal Singh is true. All the circumstances point out that ASI Rachhpal Singh has moved an application before Mr. Harpreet Singh, JMFC (Duty), Amritsar on 12.1.2019, but for the reasons best known to him, no order has been passed on the application by him.

We place our appreciation on record for the stand taken by ASI Rachhpal Singh before this Court. It was never expected from Mr. Harpreet Singh not to comply with the judgments and orders passed by this Court from time to time. It is incumbent upon all the Judicial Officers to comply with the orders passed by the higher Courts to maintain Rule of Law.

It was a serious lapse on the part of Mr. Harpreet Singh, Judicial Magistrate First Class, Amritsar, not to consider the application dated 12.1.2019. He has again tendered unconditional and unqualified apology with an undertaking not to repeat the mistake again. We close this matter after accepting the unconditional and unqualified apology tendered by Mr. Harpreet Singh, Judicial Magistrate First Class, Amritsar.

However, before parting with the order, we recommend to the Director General of Police, Punjab, to consider the case of ASI Rachhpal Singh, Police Station, Kathu Nangal, for his out of turn promotion, if

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permissible in law, for assisting this Court fearlessly and adhering to the stand taken by him before this Court. The same shall be considered within a period of two months from today.

Disposed of.

(Rajiv Sharma)
Judge

13.9.2019
vs

(B. S. Walia)
Judge