

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

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**CRM-M-8601-2019 (O&M)
Decided on : 09.11.2020**

Jogindro and others

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CRM-M-30038-2020

Jogindro and others

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. M.S. Dhami, Advocate
for the petitioner(s).

Mr. Rajiv Goel, DAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral):

The petitioners are seeking quashing of order dated 11.07.2016, vide which the petitioners were declared proclaimed offenders in case FIR No. 151, dated 06.12.2015, registered under Sections 147, 149, 341, 323, 302 IPC, at Police Station Raipur Rani, District Panchkula as well as quashing of FIR No. 127, dated 22.10.2018, under Section 174-A IPC, registered at Police Station Raipur Rani, District Panchkula, and all the consequential proceedings arising out of the same.

Since FIR No. 127, dated 22.10.2018, registered under Section 174-A IPC, has been registered as a consequence of the petitioners having been declared proclaimed offenders vide order dated 11.07.2016 in case FIR No. 151, dated 06.12.2015, both the petitions are being taken up together and are being disposed of vide this common order.

It would be relevant to give a brief run-up to the sequence of events leading to the filing of the instant petitions. FIR No. 151, dated 06.12.2015, under Sections 147, 149, 341, 323, 302 IPC, was registered on the statement of Brijpal (complainant), wherein, he had alleged that the petitioners along with some other persons had killed his brother Som Kumar (deceased) by giving him beatings and strangulating him on account of a grudge which they were nursing against the deceased pertaining to some land dispute. Thereafter, some of the accused, were arrested and challan was presented.

Learned counsel for the petitioners has submitted that subsequent to the registration of FIR No. 151, dated 06.12.2015, a representation was moved before the investigating agency with respect to their false implication. The Commissioner of Police, Ambala Rural, thoroughly enquired and investigated into the matter and vide inquiry report dated 19.10.2016 (Annexure P-3), offences under sections 147, 149, 341, 342, 302 IPC, were deleted and the investigating agency arrived at a conclusion that in fact, it was a case of suicide and not homicidal death. Directions were also given by the inquiry officer that the petitioners, who were named in case FIR No. 151, dated 06.12.2015 and had been declared proclaimed offenders be discharged in the case as per rules. Not only this, while filing the report dated 04.10.2018 (Annexure P-4) under Section 173 (8) Cr.P.C., the investigation of the case was transferred to the Superintendent of Police, State Crime Branch, Haryana, where again during investigation no incriminating evidence was found against the accused i.e. the petitioners. Even, in the report submitted by DCP (Rural), Ambala, it was stated that on verification and investigation by the DCP (Rural) Ambala, opinion of DDA, evidence collected during investigation, nothing incriminating had come to the fore against the petitioners namely Nirmala Rani

Priyanka d/o Desh Raj, Sukhbir s/o Desh Raj, Komal w/o Sukhbir, Jogindro w/o Lachhman, r/o Village Tibbi Majra, P.O. Raipur Rani, District Panchkula and consequently, they had been found innocent. It was also mentioned that the final report (challan) under Section 173(8) Cr.P.C. had been prepared and was being forwarded to the Court for further proceedings. During the course of investigation and pendency of the representation made by the petitioners, the petitioners were declared proclaimed offenders vide order dated 11th July, 2016. Subsequently, on being declared proclaimed offenders, an FIR No. 127, dated 22.10.2018, under Sections 174-A IPC, was registered against the petitioners at Police Station Raipur Rani.

In the wake of aforementioned inquiry report dated 19.10.2016 and report dated 04.10.2018, it has been vehemently argued and submitted by the learned counsel for the petitioners that it is evident that even though the petitioners were declared innocent during investigation, still FIR No. 127, dated 22.10.2018, under Section 174-A IPC was wrongly and illegally registered against them and it was not they had intentionally tried to evade the process of law

On being put to notice, reply by way of affidavit of Sh. Pawan Kumar, HPS, Assistant Commissioner of Police, Kalka, on behalf of the state of Haryana, has been filed, wherein, it has not been disputed, rather, it has been conceded by the State that during the course of investigation and the evidence collected by the State Crime Branch, the allegations levelled against the petitioners were found to be false and they had been declared innocent by the investigating agency. It has been admitted in the affidavit so filed that a supplementary report under Section 173(8) Cr.P.C. had been submitted on 04.10.2018 before the competent Court of law at Panchkula.

material on record.

It is a matter of record that supplementary report under Section 173 (8) Cr.P.C. was submitted before the Court below on 04.10.2018. Once the petitioners had been found innocent in case FIR No. 151, dated 06.12.2015 and placed in column No. 2 by the Investigating Agency, the order declaring them proclaimed offenders would have to be set aside. Still further, FIR No. 127, dated 22.10.2018, which has been registered on account of the petitioners having been declared proclaimed offenders, would have to be quashed, as the same is an outcome of the petitioners being declared proclaimed offenders.

In the facts and circumstances, as already detailed above, since, the petitioners had been found to be innocent by the Investigating Agency prior to the registration of FIR No. 127, dated 22.10.2018, under Section 174-A IPC, no useful purpose would be served in keeping the proceedings alive. Accordingly, the instant petitions are allowed. Impugned order dated 11.07.2016, passed by the trial Court as well as FIR No. 127, dated 22.10.2018, under Section 174-A IPC, registered at Police Station Raipur Rani, District Panchkula and all other consequential proceedings arising therefrom, are hereby quashed. It is, however, clarified that anything contained hereinabove would not be construed to be an expression of opinion on the merits of the case in FIR No. 151, dated 06.12.2015, under Sections 147, 149, 341, 323, 302 IPC, registered at Police Station Raipur Rani, District Panchkula.

(MANJARI NEHRU KAUL)
JUDGE

November 09, 2020

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*