

CRM-M-9657-2019

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

CRM-M-9657-2019

Date of Decision: 03.02.2020

Surinder Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Surinder Sharma, Advocate,
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

HARNARESH SINGH GILL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing the order dated 09.10.2006 (Annexure P-1) passed by the learned Judicial Magistrate Ist Class, Phillaur, vide which the petitioner has been declared proclaimed offender in FIR No.131 dated 21.09.2005, under Sections 307, 120-B and 34 IPC, registered at Police Station Nurmahal.

Learned counsel for the petitioner contends that vide judgment dated 31.10.2008 (Annexure P-2), learned Additional Sessions Judge (Ad hoc), Fast Track Court, Jalandhar, has acquitted the co-accused. While acquitting the co-accused, the trial Court has drawn the following conclusion:

“1) That the complainant has miserably failed to name any of the accused beyond shadow of doubt having fired upon

CRM-M-9657-2019

him. He named two accused whose names are missing in his original statement and the prosecution has miserably failed to link how Surinder Pal Singh and Ranbir Singh, accused fired the shot at Tirath Singh?

- 2) Tirath Singh is guilty of making false statement in the Court. He has every reason to depose against the accused. He admits that he has some controversy with Surinder Singh accused (since declared P.O.). So, that is why he has falsely implicated all the accused. Moreover, he does not name them in the Court.
- 3) That the prosecution has miserably failed to prove any recovery of pistol or other firearm from the accused, though they were remained in police custody.
- 4) The prosecution has miserably failed to prove criminal conspiracy from the statement of Tirth Singh, who overtook them on the road of Bara Pind. If there was any conspiracy, the accused must have followed him.”

Learned counsel for the petitioner submits that the petitioner is ready to join the investigation.

Learned State counsel submits that the conclusion drawn by the trial Court would not exonerate the petitioner of the offences committed by him.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the

CRM-M-9657-2019

accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Without commenting on the merits of the case, this petition is disposed of with a direction to the petitioner to join the investigation and if he is sought to be arrested, he shall be released on bail to the satisfaction of the Investigating Officer/Arresting Officer, subject to the conditions as envisaged in Section 438 (2) of the Code of Criminal Procedure.

03.02.2020

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note:	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No