

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-23373-2018

Date of decision : 02.12.2021

Prabhdeep Singh and others

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.P.P.S.Thethi, Advocate
for the petitioners.

Mr.Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of impugned order dated 25.03.2013 (Annexure P-7) passed in FIR no.137 dated 27.05.2012 registered under Sections 302, 326, 323, 324, 148, 149 IPC at Police Station Patti, District Tarn Taran.

Learned counsel for the petitioners has submitted that as far as petitioner no.3 is concerned, since he has already surrendered and he has been granted bail, thus he is not pressing the present petition on behalf of petitioner no.3 and is pressing the petition on behalf of petitioners no.1 and 2 only.

Learned counsel for the petitioners has submitted that in the present case, the petitioners have been illegally declared proclaimed offenders vide order dated 25.03.2013 (Annexure P-7). It has been stated that as per the said order, the petitioners had been served by way of

proclamation under Section 82 Cr.P.C. on 01.12.2012 and the case was fixed for 10.01.2013 but no order was passed on 10.01.2013 and the case was not taken up till 25.03.2013. The order declaring the petitioners proclaimed offender was then passed on 25.03.2013. It is thus submitted that the impugned order is liable to be set aside. It is further submitted that there is delay of 6 days in registration of the FIR and the petitioners and their family members have been framed by the complainant party on account of political rivalry, inasmuch as the father of the petitioner, i.e. Darshan Singh had contested the election of Sarpanch and had won in the said elections and was thus, opposing the ruling party.

Learned State counsel has opposed the petition vehemently. He has submitted that as per the allegations in the FIR, petitioner no.1 had attacked the deceased Tarsem with dasti kirpan with an intention to kill him and the said injury was inflicted upon the forehead of the deceased. Similarly petitioner no.2 had also attacked the deceased with his dasti kirpan with an intention to kill him and the said injury was inflicted upon the left side of the neck of the deceased. It is further submitted that both petitioners no.1 and 2 had actively participated in the incident along with the other co-accused and had killed the deceased Tarsem. It is further submitted that these petitioners do not deserve any indulgence in the present petition. It is also submitted that perusal of documents attached with the present petition would also show that the petitioners as well as their father was very well aware of the registration of the present FIR and in fact on 07.06.2012 had even submitted a representation to the Deputy Commissioner, Tarn Taran (Annexure P-3), in which a request had been made to conduct the post-mortem examination of deceased Tarsem Singh.

Reference has been made in this regard to the said representation in which it has been specifically stated that the present FIR has been registered against the petitioners. As is apparent, it is thus, proved that the petitioners were fully aware about the said proceedings and have even been absconding for the last more than 9 years and, thus delayed the trial. It is also submitted that all the zimni orders in the present case have not been attached in the present case. It is further submitted that in case the order dated 25.03.2013 is taken into consideration, it is apparent that a period of 30 days was duly granted to the petitioners to appear in the Court as the proclamation was served on the petitioners on 01.12.2012 and the case was fixed for 10.01.2013.

This Court has heard learned counsel for the parties and has perused the record.

There are specific allegations made against both the petitioners, who were alleged to have given dasti kirpan blow on the forehead and neck of the deceased Tarsem Singh respectively, with an intention to kill him. As per the prosecution case, it is on account of the injuries inflicted by petitioners no.1 and 2 along with co-accused, that Tarsem Singh had died. The FIR was registered in the year 2012 and the petitioners are residents of Tarn Taran and it is impossible to believe that the petitioners had no knowledge of the said FIR. Further the documents annexed with the petition itself show that the petitioners and their father Darshan Singh had full knowledge of the present FIR and the representation dated 07.06.2012 (Annexure P-3) would show that the same was, in fact, made to the Deputy Commissioner, Tarn Taran with the request to conduct postmortem of the deceased Tarsem Singh and in the said representation it was specifically

mentioned that FIR in question had been registered against the petitioners. The said representation was of the year 2012. However, in spite of having knowledge of the said FIR, the petitioners have chosen not to face the trial or even appear before the Court and have been absconding for the last 9 years, resulting in delay of the trial. The fact that there are serious allegations against the petitioners and also the fact that the petitioners were aware about the said proceedings is a sufficient ground to dismiss the present petition. Further, even perusal of the order dated 25.03.2013 (Annexure P-7) would show that the petitioners were served on 01.12.2012 and the case was stated to be fixed for 10.01.2013 and thus, there was a period of more than 30 days between the service of proclamation and the date on which the petitioners were required to appear. The same shows that a necessary compliance of the provision of Section 82 Cr.P.C. was made and merely because on the said date, i.e. 10.01.2013, the case was not taken up and the petitioners were declared as proclaimed offender on subsequent date, i.e. 25.03.2013, would not call for any interference, moreso, when it is not the case of the petitioners that they had come to the Court on 10.01.2013 for putting in appearance. In fact the present petition had been filed after a delay of more than 8 years from even date when the order dated 25.03.2013 was passed. Moreover, all the zimni orders were not annexed so as to show all the orders passed prior to passing of the order dated 25.03.2013.

This Court, is thus, of the opinion that the prayer of the petitioners in the present case for setting aside the order dated 25.03.2013 (Annexure P-7) would in fact result in granting bail to the petitiones in the present FIR in which serious allegations have been levelled against the petitioners and the other co-accused under Sections 302, 326, 323, 324, 148,

149 IPC and thus, on the said ground, the present petition deserves to be dismissed.

No ground is thus made out to interfere in the present petition and the same is dismissed.

December 02, 2021
Davinder Kumar

(VIKAS BAHL)
JUDGE

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No