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

CRM-M-20476-2021

Date of Decision: 02.07.2021

Harpreet Singh @ Happy

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. D.R. Punia, Advocate for the petitioner.

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Manoj Bajaj, J. (Oral)

This petition has been filed for quashing of FIR No.111 dated 22.09.2012, under Sections 324 and 34 IPC and (Section 326 IPC added later on) registered at Police Station Sadar, District Kapurthala as well as the impugned order dated 01.02.2016 (Annexure P-2), whereby the petitioner was declared as proclaimed offender.

The present FIR was registered on the basis of the statement suffered by complainant Parwinder Singh, who stated that on 16.09.2012, the complainant along with his friend Harpal Singh had come to Kapurthala on his motorcycle bearing registration No.PB-09-P-9716 in connection with some personal work. At about 9:30 P.M., they were returning home on motorcycle and when they reached near Tower of telephone in the area of village Ariyanwala, then Harpreet Singh @ Happy son of Harjinder Singh armed with datar, Simardeep Singh son of Darshan Singh armed with datar and Harjinder Singh son of Karam Singh, residents of village Kassochohal, were already standing there. They stopped them and Harjinder Singh exhorted to teach them lesson for having a land dispute with Simardeep

Singh. On this, Simardeep Singh gave a blow of datar, which hit on his right arm. Then Harpreet Singh @ Happy gave a datar blow, which hit on his head. He and Harpal Singh raised hue and cry. In the meantime, his father, who was going in jeep make Bolero in order to drop the labour, reached at the spot, who rescued them from the clutches of accused. Thereafter, the assailants fled away along with their respective weapons towards their 'dera'. He was shifted to hospital by his father Pritam Singh and Harpal Singh, where he is under treatment. He further stated that the motive behind this occurrence is that Harpal Singh is having a land dispute with Simardeep Singh. He prayed for taking action against the accused.

Learned counsel for the petitioner has argued that the petitioner was summoned under Section 319 Cr.P.C. and pursuant to the said order, he submitted himself before the Court, but later on, he absented from the trial proceedings, whereupon the trial Court declared him proclaimed offender vide impugned order dated 01.02.2016 (Annexure P-2). Learned counsel has argued that in the meantime, the trial against the two co-accused continued and the same ended in acquittal through judgment dated 10.10.2017 (Annexure P-3). According to him, the said judgement has attained finality, as the criminal appeal No.17 dated 15.01.2018 filed by the State of Punjab was also dismissed. Learned counsel contends that since the prosecution has set up a common case against all the three accused persons, therefore, the trial in respect of the petitioner would be a futile exercise. In support of his arguments, learned counsel has relied upon the decision of this Court in **Sudo Mandal @ Diwarak Mandal Vs. State of Punjab, 2011 (2) R.C.R (Criminal) 453.** He prays that the FIR No.111 dated 22.09.2012 as well as the order dated 01.02.2016 (Annexure P-2), whereby the

petitioner was declared proclaimed offender be set aside.

During the course of hearing, it is not disputed by the learned counsel that after summoning of the petitioner under Section 319 Cr.P.C., he appeared before the trial Court and thereafter, he absented. This clearly indicates that the petitioner was well aware of trial proceedings and never made any efforts to rejoin the trial proceedings after his absence.

After hearing the learned counsel for the petitioner, this Court finds that the claim raised by the petitioner is completely misplaced, as the acquittal of his co-accused alone is not sufficient to presume that the petitioner is not involved in the crime. All the offences contained in the FIR are offences against human body and the petitioner, who was specifically named in the FIR is yet to face trial and the prosecution is yet to adduce evidence. Apart from it, the judgement in **Sudo Mandal's case (supra)** does not lend any strength to the case of the petitioner, as the same has already been distinguished by this Court in **Harpeet Singh Vs. State of Punjab and another (CRM-M-21911-2019 decided on 15.07.2019)**, wherein it was observed that the exercise of inherent powers under Section 482 Cr.P.C. in the said case was not in consonance with the other consistent law laid down by Hon'ble Supreme Court of India. The said observations read as under:

“In Sudo Mandal's case, the Hon'ble Division Bench was examining the judgment of conviction delivered by the trial Court against the two appellants, who were in appeal. After considering the evidence, this Court proceeded to hold that the prosecution had failed to establish the charges and, therefore, reversed the conviction and ordered acquittal of convicts. At the same time, this Court proceeded to quash the FIR in respect of three proclaimed offenders, who had neither filed any petition nor made any prayer for quashing of the FIR, but the Court suo motu exercised the inherent powers under Section 482 Cr.P.C. without even referring any case law on the subject. Therefore, with respect, but without hesitation, it is

observed that the judgment in Sudo Mandal's case, apparently is deviation from other consistent law, on exercise of powers under Section 482 Cr.P.C. laid down by Hon'ble Supreme Court, and, therefore, the same cannot be treated as a precedent. Similarly, the other two judgments relied upon by learned counsel for the petitioner are of no help. Time and again, this Court as well the Hon'ble Supreme Court have laid down that the inherent powers under Section 482 Cr.P.C. should be exercised with care and circumspection considering the facts and circumstances of the case”.

In view of the above, no ground is made out for exercising the inherent powers under Section 482 Cr.P.C. for quashing of the FIR No.111 dated 22.09.2012, under Sections 324 and 34 IPC and (Section 326 IPC added later on) registered at Police Station Sadar, District Kapurthala as well as the order dated 01.02.2016 (Annexure P-2).

Dismissed.

02.07.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No