

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

CRM-M-54044-2021

Date of decision-23.12.2021

Nekveer Singh @ King @ Nekbir Singh Grewal

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. SPS Sidhu, Advocate
for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 482 Cr.P.C seeking quashing of the order dated 13.09.2021 (Annexure P-5) passed by learned JMIC Ludhiana, whereby petitioner has been declared as proclaimed offender in FIR No.127 dated 07.05.2020 registered under Sections 307 and 506 Indian Penal Code, 1860 and Sections 25 and 27 Arms Act, 1959 at Police Station Salem Tabri, District Ludhiana. It has been further prayed that operation of the impugned order dated 13.09.2021 be stayed.

The above FIR was registered on the basis of the statement given by complainant-Sushma wife of Hardeep Singh, who stated that the complainant was previously married to Harish Kumar son of Jagdish Lal and out of this wedlock, two daughters, namely, Ashu and

Rashmi, who are presently 25 and 22 years old, respectively, were born. The complainant got divorce from Harish Kumar and performed marriage with Hardeep Singh son of Pritam Singh about 21/22 years ago with the consent of her parents and out of this wedlock, a son, namely, Seha Singh (21 years old) born. Hardeep Singh used to live with the complainant in the day time and some time at night time also, who was about 75 years old and heart patient. Hardeep Singh's first wife, namely, Harjit Kaur died about a year ago. On 21.03.2020, Hardeep Singh came to the house of the complainant and after imposition of curfew/lock-down, he was residing with the complainant. During this period, his health condition turned poor and he was admitted to Fortis Hospital. Regarding admission of Hardeep Singh, complainant had informed that to his son Gagandeep Singh, who also visited the hospital along with his son Nekbir Singh @ King (petitioner). On 05.05.2020, Hardeep Singh died. According to the complainant, Gagandeep Singh etc raised the dispute in relation to handing over the body by hospital as they insisted that the dead body be delivered to the wife of the deceased. However, on 06.05.2020, Nekbir Singh (petitioner) telephonically asked the complainant to reach hospital to get dead body and the same was handed over to the complainant and they all asked for handing over the dead body to Gagandeep Singh, whereupon complainant said that she would also be present at cremation of her husband. When complainant along with her

son Sehz Singh and brother Lovely Kumar etc reached at village Kadian for cremation and when complainant's son paid tributes to his father, Gagandeep Singh and his son Nektir Singh started abusing him. They both fired shots from the pistol at complainant and her son, which hit on the left leg of Sehz Singh and left leg of the petitioner. Another gun shot hit at Kirandeep Kaur wife of Sukhmeet Singh. Complainant and her son ran away from there in order to save their life. According to complainant, the accused apprehended that her son Sehz Singh would claim share in the property of Hardeep Singh and for this reason they caused this occurrence.

Learned counsel for the petitioner has argued that the complainant had falsely implicated the petitioner in FIR No.127 dated 07.05.2020 registered under Sections 307 and 506 Indian Penal Code, 1860 and Sections 25 and 27 Arms Act, 1959 (Annexure P-1) registered at Police Station Salem Tabri, District Ludhiana, as according to him, on the basis of a representation given by the mother of the petitioner, an inquiry was conducted by Director Bureau of Investigation, Punjab, who has declared the petitioner as innocent. He submits that though the original report dated 16.06.2021 did not specifically recorded the innocence of the petitioner, therefore, the another application was given by the petitioner's mother on 14.10.2021 (Annexure P-4) seeking clarification from the said Director Bureau of Investigation, Punjab, who in response clarified inquiry report by

declaring the petitioner-Nekbir Singh as innocent in the alleged crime contained in FIR No.127 (Annexure P-1). He submits that the petitioner has already been declared innocent, therefore, the order dated 13.09.2021 (Annexure P-5), declaring the petitioner as proclaimed offender is not sustainable. He prays that the impugned order dated 13.09.2021 be quashed.

During the course of hearing, it is not disputed by learned counsel that the petitioner had previously approached this Court through CRM-M-14942-2021, for grant of pre arrest bail and his prayer was rejected vide order dated 06.04.2021 (Annexure P-2). He fairly concedes that during the hearing of the pre-arrest bail application, neither any ground of submission of representation before the Bureau of Investigation, Punjab was raised nor it was argued that the same is pending consideration. Learned counsel fairly stated that as per the allegations, the petitioner is named in the FIR, who is stated to be armed with fire-arm weapon and had allegedly caused injuries upon the victims.

After hearing learned counsel for the petitioner and considering the above background, this Court finds that even as per the report dated 14.10.2021 (Annexure P-4) prepared by Director Bureau of Investigation, Punjab, the presence of the petitioner has been recorded at the place of occurrence, who grappled with the victims and the alleged gunshot was fired by his father-Gagandeep Singh son of

Hardeep Singh. The said observation is based upon the stand of the accused adopted in the representation, and the Inquiry Officer blindly proceeded to accept the said version of the accused without realizing the fundamental law of investigation in a crime. Admittedly, the petitioner is yet to join the investigation and the defence of the accused is to be examined once original onus is discharged by the prosecution. It is extremely strange that on one hand, the Investigating Officer is taking steps to arrest the petitioner and the Court has even declared him proclaimed offender, but the senior State Police Officer instead of facilitating the investigation in right direction has chosen to act on the commands of the accused person. This is complete dereliction of the duty on the part of the Director Bureau of Investigation, Punjab.

Chapter XII contains specific provisions relating to systematic investigation in a crime, but instead of ensuring fair investigation by the Investigating Officer, the senior police officers of State themselves violate the statutory provisions of investigation by accepting the representation on behalf of the accused. This artificial procedure tends to defeat the lawful procedure of investigation and trial, but the senior police officers instead of discouraging the accused from adopting such meaningless remedies promote such practices for their own vested interests.

In view of the above discussion, this Court does not find any merit in the case for exercise of inherent power under Section

Section 482 Cr.P.C.

Dismissed.

(MANOJ BAJAJ)
JUDGE

23.12.2021

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