

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

205

CRM-M-1789-2020

Date of Decision: 24.08.2022

Sunveer Sondhi

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Abhinav Sood, Advocate for the petitioner

Mr. Surender Singh, AAG Haryana

Sandeep Moudgil, J. (Oral)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing FIR No.47 dated 16.02.2016 (Annexure P-1) under Section 188 IPC read with Sections 1, 14 and 68 of the Punjab Excise Act, 1914 at Police Station Ambala Cantt., charge-sheet dated 27.04.2016 (Annexure P-2) and all consequential proceedings arising therefrom, qua the petitioner.

Learned counsel for the petitioner has relied upon the order dated 25.10.2018 passed by this Court in **CRM-M-35749-2016 (Mannan Goel & Anr. vs. State of Haryana)** wherein in paras 15 to 18, the Hon'ble Division Bench of this Court has observed as under:-

“15. Admittedly, petitioners were in hotel at the time of raid, which cannot be termed as public place. Even if it be believed that they were being served liquor there by the management of the hotel in the hall, for which it was not having licence, it cannot be inferred that liquor was being served at a public place. It is admitted that hotel was having a licence for service of liquor to its customers, which was confined to a particular floor of the hotel. If the management of the hotel had violated the terms of the licence permitting it to serve liquor, the customers in the hotel cannot be held liable. As already discussed, the hotel

where the liquor was allegedly being served to petitioners was not a public place and on taking note of facts of case, learned State counsel has candidly conceded that the offence under Section 68 of the Punjab Excise Act is not disclosed from the facts as stated in the FIR.

16. As per provisions of Section 47 of the Punjab Excise Act, any officer of Excise or Police, as per above provision, is not competent to arrest any person for offence under Section 68 of the Punjab Excise Act. The powers have been vested under this section to competent authority i.e. Excise Officer, Police etc. to arrest any person found committing an offence under Section 61 or Section 63 of the Excise Act.

17. From the above discussion, it is apparent that Inspector Ajit Singh, who conducted the raid at the hotel Shanghai on 16.02.2016, had acted beyond his powers while arresting 33 boys and girls, who were present in the hotel. It was a horror for them that they were arrested, taken to police station and subjected to medical check up. Even if there was some violation of the provisions of the Punjab Excise Act by the management of the hotel, Inspector Ajit Singh could certainly refrain management of the hotel from serving the liquor and ask them to switch off the audio system being played there and initiate proceedings against hotel management for offence under Section 188 IPC in accordance with law but instead of remaining within his powers he overreacted and put 33 boys and girls to a great inconvenience on the pretext that he had intimated the senior officers before conducting the raid. Though, there is nothing that permission for the act of Inspector Ajit Singh had been allowed by senior officers but if the same had been allowed it was also beyond the legal parameters.

18. During course of arguments, Mr. Deepak Grewal, DAG, Haryana has fairly assisted this Court and was having really a tough time while defending the conduct of Inspector Ajit Singh and the sustainability of the instant FIR. I, however, appreciate his fairness to concede that the police has certainly violated the

legal proposition and exceeded its powers while apprehending boys and girls at odd hours from a hotel.”

In pursuance to the earlier order dated 17.01.2020 vide which learned counsel for the petitioner had claimed parity on the basis of order dated 25.10.2018 (Annexure P6) passed in the same FIR qua the co-accused Mannan Goel, Sahil Gupta and 24 other accused persons.

Learned State counsel did not controvert the said fact that the petitioners are similarly-situated.

In view of the above, and for the reasons already assigned by the above referred order, this petition is also allowed in same terms and consequently, the FIR No.47 dated 16.02.2016 under Section 188 IPC read with Section 68 of the Punjab Excise Act, 1914 (as applicable to the State of Haryana) along with all consequential proceedings arising therefrom, is quashed.

24.08.2022
V.Vishal

(Sandeep Moudgil)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No