

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-6542-2021 (O & M)

Date of decision: 12.09.2022

Randhir Singh

..... Petitioner

V/s

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. IPS Kohli, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

This is the second petition under Section 482 for quashing of FIR No.45 dated 19.03.2010 under Sections 307, 452, 506, 323, 325, 34 IPC registered at Police Station City Kapurthala, District Kapurthala, Punjab against the petitioner and all other proceedings arising therefrom including final report dated 28.10.2011 (Annexure P-1) and the order dated 28.04.2011 whereby the petitioner has been declared a proclaimed offender.

When this matter came up for hearing on 11.02.2021, the following order was passed :-

“Prayer in this 2nd petition is for quashing of FIR No.45 dated 19.03.2010 registered under Sections 307, 452, 506, 323, 325, 34 IPC at Police Station City Kapurthala, District Kapurthala and all other proceedings arising therefrom including the final report (Annexure P1) and for setting-aside the order dated 28.04.2011 (Annexure P3).

The earlier one was dismissed as withdrawn vide order dated 29.01.2021 passed in CRM-M No.4183 of 2021,

with permission to the petitioner to file fresh petition with better particulars.

Counsel for the petitioner has now placed on record the passport entries.

Counsel for the petitioner has argued that as per the judgment dated 01.08.2012 passed by the Additional Sessions Judge, Kapurthala, the real brother of the petitioner namely Malkiat Singh, was acquitted, after holding a full length trial whereas the petitioner, who has travelled abroad, was declared a proclaimed offender. The operative part of the said judgment, reads as under:-

“8. I have heard the Ld. APP for the State and LD. Defence counsel and gone through the record carefully.

9. In the present case, FIR was lodged on the statement of Sukhwinder Singh on the allegations that his neighbourer Malkiat Singh was running a shuttering business from whom he has purchased old shuttering material and started his shuttering business and his neighbourer Malkiat Singh agreed not to do the same business but later on he started the same business. He was running his business in a profit than the business of Malkiat Singh. Due to this reason he has nursed a grudge against them. On 19.3.2010 he along with his son Randhir Singh @ Dhira and daughter Sonu entered their house and raised Lalkara to teach them a lesson of competing them with their business. On saying that he entered the room but his mother was in the courtyard who tried to stop them. Dhira gave iron channel blow upon her head and she fell down. When he came to take his mother Malkiat Singh and his daughter scuffled with him. They raised hue and cry, then they ran away. When complainant Sukhwinder Singh appeared in the witness box as PW2 he did not support the prosecution allegations, rather stated that none of the accused inflicted any injury upon the person of his mother.

He stated that some unknown persons entered their house and inflicted injuries. He even denied his statement recorded by the police. Similarly Pritam Kaur PW3 injured also did not support the prosecution version and stated that the accused persons present in the court are not the persons who inflicted injuries upon her person. She also denied her statement recorded by the police. Both the witnesses were declared hostile, at the request of the Ld. Addl. PP for the State and were cross examined at length but nothing has been elicited from their mouth in favour of the prosecution. So from the statement of the complainant and eye witnesses, no evidence has come on the file to connect the accused persons with the present case. Therefore, I find merits in the contentions raised by the counsel for the accused.

10. Since there is not an iota of evidence against the accused regarding commission of offence under Sections 307/323/325/506/452/34 IPC. So this Court has no option than to acquit the accused. Accordingly, accused Malkiat Singh is acquitted of the charge framed against him. The bail bonds and surety bonds of the accused are discharged.

11. File be consigned to the record room with the direction to be taken up again as and when accused Randhir Singh surrenders or is arrested and produced by the police.”

Counsel for the petitioner has further submitted that the petitioner, who was found innocent at the initial stage, had travelled abroad and in the intervening period, he never returned back. It is also submitted that now, the petitioner wants to come back to India and he came to know that he has already been declared a proclaimed offender vide impugned order dated 16.04.2011. It is further submitted that there is no formal order for declaring the petitioner as P.O., however, an intimation was sent on 28.04.2011 vide Annexure P-3.

Counsel for the petitioner has further argued that since both the prosecution witnesses have resiled from

their statement and thereafter, the brother of the petitioner was acquitted and even, in the cross-version i.e. State vs Sukhwinder Singh, the accused vide judgment dated 01.08.2012 were also simultaneously acquitted.

Counsel for the petitioner has also submitted that the chances of conviction of the petitioner are very bleak and no purpose will be served if the petitioner is directed to surrender before the Court and face the trial as the witnesses in both the version and cross-version were declared hostile and did not support the prosecution version. It is further submitted that the petitioner has left India on 10.07.2010 and since then, he is residing in U.S.A. and has now booked air ticket to come back to India on 13.02.2021.

Notice of motion.

Mr. Joginder Pal Ratra, DAG, Punjab who is present in the Court through video conferencing accepts notice on behalf of the respondent – State.

Counsel for the State did not dispute the fact that in the version and cross-version cases, the brother of the petitioner and the accused in the cross-version, were declared hostile by the Additional Sessions Judge vide 02 separate judgments dated 01.08.2012 (Annexures P-7 and P-9). It is also not disputed that from the perusal of the passport that the petitioner has travelled abroad in the year 2010 and since then, he was residing in U.S.A.

List again on 20.05.2021.

Till the next date of hearing, the arrest of the petitioner shall remain stayed from the time, he arrives in India, to enable him to appear before the trial Court/Illaq Magistrate/Duty Magistrate to furnish bail/surety bonds.

The trial Court/Illaq Magistrate/Duty Magistrate is directed to accept the bail/surety bonds of the petitioner, in accordance with law.

This will, however, be subject to payment of costs of Rs.1.00 lac to be deposited with the Punjab & Haryana High Court Advocates Welfare Funds on or before 08.03.2021.

In the meantime, reply, if any, be filed in the Registry with copy in advance to counsel opposite”.

In furtherance of the aforesaid order the petitioner has appeared before the Trial Court and deposited a sum of Rs.1,00,000/- with the Punjab and Haryana High Court Advocates Welfare Funds. He was admitted to interim bail vide order dated 08.03.2021.

The learned counsel for the State has filed a short reply by way of affidavit of Surinder Singh, PPS, Deputy Superintendent of Police, Sub Division Kapurthala, District Kapurthala dated 05.05.2021. as per which, the co-accused of the petitioner has been acquitted.

In view of the above, I deem it appropriate to direct the Trial Court to conclude the trial against the petitioner as well within a period of three months from the date of receipt of copy of this Court. Ordered accordingly.

Disposed of.

September 12, 2022
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No