

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(251)

CRM-M-12810-2019

Date of decision: - 11.10.2022

Beant Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Gopal Singh Nahel, Advocate
for the petitioner.

Mr. Iqbal S. Mann, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C.
for quashing of FIR No.44 dated 04.06.2015, under Section 61 of Punjab
Excise Act, 1914, registered at Police Station Sadar, Sangrur, District
Sangrur and all consequential proceedings arising out of the said FIR.

On 28.01.2020, a Co-ordinate Bench of this Court was
pleased to pass the following order: -

*"Status report by way of affidavit of Satpal Sharma, PPS,
Deputy Superintendent of Police, Sub Division, Sangrur has been filed
by learned State counsel, in compliance of order dated 18.07.2019
passed by this Court. The same is taken on record.*

*The instant petition under Section 482 Cr.P.C. has been filed
for quashing of FIR No.44 dated 04.06.2015, under Section 61 of
Punjab Excise Act, 1914, registered at Police Station Sadar, Sangrur,
District Sangrur and all consequential proceedings arising out of the
said FIR.*

Counsel for the petitioner has argued that despite the fact that

the FIR was registered in the year 2015, the challan has not been presented till date, even though it was required to be presented within a period of one year as mandated by Section 75 of the Punjab Excise Act, 1914.

The State counsel, upon instructions from Shri Gurdeep Singh, has submitted that challan was prepared on 30.10.2017 and the case file was sent on 29.04.2019 for getting sanction for prosecution of accused and that challan will be presented as and when sanction is received. He has made a reference to the status report filed by Deputy Superintendent of Police, the relevant extract of which reads as under:-

“3. That the report from Chemical Examiner, Kharar was received on 01.01.2017 and at that time the case file was with H.C. Gurjiwan Singh 1053/SGR and immediately on the receipt of FSL report, challan should have been prepared by him and the challan papers were required to be sent to the competent authority for procuring of Govt. sanction under Section 75(2) of the Punjab Excise Act, 1914, but he failed to do so till 03.05.2017, so he was found responsible for dereliction of duties, however, no action could be taken against him, as he has died on 16.10.2018. After 03.05.2017, the case file remained with Head Constable/ now, ASI Manjit Singh No.1771/SGR for investigation for the period 13.05.2017 to 19.03.2019 and as the FSL report has already been received by H.C. Gurjiwan Singh (since died) no doubt, H.C. Manjit Singh No.1771/SGR prepared the challan on 30.10.2017 and the challan papers were required to be sent to the competent authority for procuring of Govt. sanction for the prosecution of accused. But H.C./ASI Manjit Singh also failed to discharge his official duties. However, on the transfer of the above said H.C. Manjit Singh, the case was sent to the Director Bureau of Investigation, Punjab, Chandigarh on 29.4.2019, for getting the Govt. sanction for the prosecution of the accused, but the requisite Govt. sanction has not been received so far. As and when necessary Govt. sanction is received, challan of the case will be presented to the Ld. Illaqa Magistrate, for trial.

4. That so far as the said lapse of dereliction of duty on the part of Head Constable Manjit Singh No.1771/SGR, is concerned, it is submitted that, a show cause notice was issued to him by the Senior Superintendent of Police, Sangrur vide No.1289/Steno dated 31.05.2019, however, H.C. Manjit Singh did not submit reply to the said show cause notice, so another notice has been issued by the Senior Superintendent of Police, Sangrur to the said H.C. vide No.1703/Steno dated 29.07.2019 for submitting his reply failing which further order would be passed. On the receipt of reply and considering the same further necessary action will be taken against the above said Head Constable.”

The rival contentions of the parties have been considered.

Section 75 of the Punjab Excise Act, 1914 deserves to be noticed and is reproduced as under:-

“75. Cognizance of offences.-(1) No Judicial magistrate shall take cognizance of an offence punishable-

(a) under section 61 or section 66 except on his own knowledge or suspicion or on the complaint or report of an excise officer, or

(b) under section 62, section 63, section 64, section 65, section 68 or section 70, except on the complaint or report of the Collector or an excise officer authorised by him in that behalf.

(2) Except with the special sanction of the State Government, no Judicial Magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within a year after the date on which the offence is alleged to have been committed.”

A perusal of the above reproduced provision shows that the bar under Section 75 of the Punjab Excise Act comes into operation on expiry of one year from the date when the alleged offence is stated to have been committed. This provision had come up for interpretation before this Court in CRM-M-5549-2016, Ranjit Singh @ Jeet Singh Vs. State of Punjab and others, decided on 25.10.2016. In the said case, this Court, noticing the fact that a period of 02 years and 08 months had lapsed after the registration of the First Information Report and that report under Section 173(2) Cr.P.C. had not been presented in the Court, had quashed the FIR and subsequent proceedings.

In the present case, a period of more than 04 years and 06 months have passed since the FIR had been registered and till date the challan has not been presented. Therefore, the First Information Report and consequential proceedings deserve to be quashed. Accordingly, the petition is allowed and FIR No.44 dated 04.06.2015, under Section 61 of Punjab Excise Act, 1914, registered at Police Station Sadar, Sangrur, District Sangrur and all consequential proceedings, insofar as the petitioner is concerned, are quashed.

A perusal of the above reproduced status report shows that show cause notices had been issued to certain police officials for dereliction of duties on their part.

Let the matter be listed on 24.04.2020 to enable the State to file the status report in this regard.

(SUVIR SEHGAL)
JUDGE

28.01.2020"

A perusal of the above order would show that the present petition for quashing was allowed and the FIR in question was quashed. With respect to dereliction of duties on the part of the police officials, the matter was kept pending.

Learned State counsel has referred to the status report dated 17.12.2020, wherein, it has been stated that it has been found that two officials, namely, Gurjiwan Singh and Manjit Singh were found responsible for not having submitted the challan of the case in time even after the receipt of the chemical report and the Head Constable Gurjiwan Singh had died and a show cause notice to Constable Manjit Singh had been issued, who had submitted his reply and after considering the same, punishment of censure has been awarded to Constable Manjit Singh by the Senior Superintendent of Police, Sangrur, vide order dated 26.09.2020 and a copy of the same has been annexed. The relevant paras No.2 and 3 of the said reply are reproduced herein below: -

"That pursuant to the said order, it is submitted that for note submitting challan of the case in time in the Court, even after the receipt of chemical report, two officials namely, H.C. Gurjiwan Singh No 1053/SGR and HC. Manjit Singh No.1771/SGR were found responsible. H.C. Gurjiwan Singh No.1053/SGR has died. Whereas, for the said lapse on the part of HC. Manjit Singh No.1771/SGR for dereliction of duties, the then Senior Superintendent of Police, Sangrur had issued a show cause notice No.1289/Steno dated 31.05.2019 upon the said H.C., why not a departmental inquiry is to be initiated against him, he was afforded opportunity to defend himself and was further asked to submit his reply to the show cause notice within 7 days, but the said H.C. did not submit his reply in time. Then he was again asked vide notice No.1703/Steno dated 29.07.2019 that

now, his reply should reach within two days, otherwise further proceedings will be initiated against him.

3. *That H.C. Manjit Singh 1771/SGR submitted his reply to the said show cause notice and after considering the same, punishment of censure has been awarded to Head Constable Manjit Singh 1771/SGR by the then Senior Superintendent of Police, Sangrur vide order No.4342-46/ST dated 26.09.2020. True translated copy of order is annexed as Annexure R-1/T and in Vernacular is annexed as Annexure R-1.*

Accordingly, the instant status report is being filed in compliance with order dated 28.01.2020 passed by this Hon'ble Court."

Keeping in view the above-said status report and also the fact that the FIR in question has already been quashed, no further orders are required to be passed in the present petition and accordingly, the same is disposed of.

October 11, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No