

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-36324-2017 (O&M)
Date of decision: 20.12.2022

SURAJ KUMAR

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Jasneet Mehra, Advocate
for the petitioner.

Mr. Kamalpreet Bawa, AAG Punjab.

AMAN CHAUDHARY. J.

Instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 92 dated 11.06.2014 under Sections 21/22/61/85 of NDPS Act, registered at Police Station E Division, Amritsar City District Amritsar and all the consequential proceedings arising thereto.

Notice of motion was issued in this case on 21.12.2018. Thereafter, the medical record regarding the petitioner depicting his mental disability as directed by this Court vide order dated 10.01.2018, was placed on record on 21.02.2018, whereafter the following order was passed on 22.07.2019, which reads thus:-

“Present petition is for quashing of FIR No.92 dated 11.06.2014, under Sections 21 and 22 of NDPS Act, registered at Police Station 'E' Division, Amritsar, City District Amritsar.

During the course of arguments, learned counsel for the petitioner contended that the petitioner, who is person of

unsound mind and as per his medical disability certificate, he has been declared by the doctor to be having 70% mental disability and cannot defend his case, and application under Section 330 Cr.P.C. was moved in the year 2017 and the said application was fixed for hearing on 12.10.2017 for decision but the same has not been decided as yet.

Let report from learned trial Judge be obtained in this regard.

Adjourned to 04.09.2019.”

Today, learned State counsel on instructions from HC Manjeet Singh states that vide order dated 31.10.2022, the learned Judge, Special Court has decided the application and adjourned the case sine die. He has produced the copy of order which reads thus:-

“Heard and file perused.

Accused Suraj Kumar son of Ram Chand is suffering from disability of 70% due to mental retardation since 26.9.2016 as per certificate issued by Director Institute of Medical Health, Amritsar.

An application was moved by counsel for the accused under the provisions of Section 329 Cr.P.C for release of accused Suraj Kumar on account of the fact that he is of unsound mind. Resorting to the provisions of Section 330 Cr.P.C report was called from the office of Civil Surgeon, Amritsar.

Neelam wife of Late Ram Charan has made statement in the court that her son Suraj is under treatment in the Dr. Vidya Sagar Institute of Mental Health, Amritsar since 27.7.2016 vide register No.68/73/4 dated 27.7.2016 and is still under treatment till date. She also produced prescription slip Annexure-'A'. Learned counsel for accused Suraj has also produced copies of treatment slips of various dates Ex.DA to Ex.DG issued by Dr. Vidya Sagar Institute of Mental Health, Amritsar. Perusal of prescription slips Ex.DA to Ex.DG shows that accused Suraj son of Ram Chand was is being treated by Dr. Vidya Sagar Institute of Mental Health, Amritsar vide Regd./No.68173/27.7.2016 since 27.7.2016. Smt. Neelam has made statement in the court that her son Suraj is under still treatment in the Dr. Vidya Sagar Institute of Mental Health.

Since the accused Suraj Kumar is incapable to enter into defence by the reason of mental retardation and he cannot proceed with the trial of the case. As such, he is ordered to be released till he ceases to be of unsound mind and he may be provided with proper medical care. File be consigned to the

record room and be called back whenever accused ceases to be of unsound mind, to proceed with the case as per provisions of Section 331 Cr.P.C.

In view of the aforesaid, learned State counsel submits that the present petition has been rendered infructuous and may be disposed of as such.

In view of the above, no further orders are required to be passed in the present case.

Petition is disposed of as having been rendered infructuous.

However, liberty is granted to the petitioner to avail of alternate remedy, available to him, in accordance with law.

(AMAN CHAUDHARY)
JUDGE

December 20, 2022

M.Kamra/S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>