

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

**CRM-M-38354-2017
Date of Decision: 10.10.2022**

RANJIT SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Kamal Deep Sidhu, Advocate
for the petitioners.

Mr. Jaiteshwar Singh, Asst. A.G., Punjab.

JASJIT SINGH BEDI, J.(Oral)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 05.08.2017 (Annexure P-10) passed by the learned Additional Chief Judicial Magistrate, Bathinda, quashing of the Criminal Complaint No.COM1/196/2017 dated 18.08.2017 pending before the learned Judicial Magistrate, 1st Class, Bathinda under Section 177 of the IPC, read with Sections 195 and 340 Cr.P.C. (Annexure P-11), the summoning order dated 23.08.2017 (Annexure P-12) and all subsequent proceedings arising therefrom.

2. The brief facts emanating from the present petition are that an FIR No.188 dated 19.11.2015 was registered at Police Station Canal Colony, Bathinda under Sections 452, 323, 427, 148, 149 of the Indian Penal Code, against Jagmit Singh son of Atma Singh and others. Jagmit Singh moved an application for anticipatory bail before the learned Sessions Judge, Bathinda and the application came up for hearing before

the learned Additional Sessions Judge, Bathinda on 05.11.2016 on which date ad interim bail was granted to Jagmit Singh and he was directed to join investigation within three days. Thereafter, the order granting interim anticipatory bail was confirmed by the Court vide order dated 06.02.2016. A copy of the order dated 06.02.2016 is annexed as Annexure P-1 to the petition.

3. Initially, the investigation of the aforementioned FIR was being conducted by ASI Ramesh Masih and thereafter, the file remained with the Vigilance Bureau. The petitioner-ASI Ranjit Singh is said to have been entrusted with the file on 22.09.2016 as per the case file. Be that as it may, the challan in the present case was prepared and the report under Section 173 Cr.P.C. was finalized by the SHO, Police Station Canal Colony, Bathinda on 09.12.2016, where it was specifically noticed that accused Jagmit Singh was yet to be arrested and proceedings for getting him declared a proclaimed offender were being initiated. The extract of the challan is annexed as Annexure P-2 to the petition. The challan was finally presented on 19.05.2017.

4. Meanwhile, the petitioner approached the learned Court of Additional Chief Judicial Magistrate, Bathinda seeking the arrest warrants of accused Jagmit Singh as per request dated 17.05.2017 (Annexure P-3).

5. Thereafter, on 19.07.2017 an application under Section 437 Cr.P.C. was moved on behalf of Jagmit Singh before the learned Judicial Magistrate, 1st Class, Bathinda seeking bail in FIR No.188 dated 19.11.2015. It was specifically stated in the application that it was the first bail application on behalf of the accused, who was confined in the

to the State. Pertinently, there is no reference of the previous bail application moved by Jagmit Singh and the order dated 06.02.2016, wherein he was granted bail. A copy of the application is annexed as Annexure P-4 to the petition.

6. Thereafter, the petitioner appeared before the Court of Additional Chief Judicial Magistrate, Bathinda on 24.07.2017 and suffered a statement as per the record available with him to the effect that Jagmit Singh accused had not been arrested in the case and nor had he been granted bail and neither had his arrest being stayed by any Court. The petitioner informed the Court that the accused Jagmit Singh was lodged at Sub Jail, Sri Muktsar Sahib in some other case and production warrants were sought. Thereupon, the Court ordered issuance of production warrants of accused Jagmit Singh for 27.07.2017. A copy of the said order is annexed as Annexure P-5 to the petition.

On the same date, the counsel for Jagmit Singh appeared before the said Court and sought to withdraw the bail application moved by him. Consequently, the learned Additional Chief Judicial Magistrate, Bathinda an order was passed dismissing the bail application as withdrawn. A copy of the order dated 27.07.2017 is annexed as Annexure P-6 to the petition.

7. On 27.07.2017, accused Jagmit Singh was produced in the Court of the learned Additional Chief Judicial Magistrate, Bathinda in pursuance to production warrants issued against him and permission was sought by the prosecution to effect a formal arrest which was allowed. Further, an application was moved seeking judicial remand which too was allowed and Jagmit Singh was remanded in judicial custody till

10.08.2017. A copy of the orders are annexed as Annexure P-7 (colly) to the petition.

8. On 04.08.2017, an application was moved on behalf of accused Jagmit Singh seeking correction of the jail warrant by writing that the accused was on bail instead of not on bail. Thereby, a confirmation was sought as to the status of the accused. It was also disclosed in the application that Jagmit Singh had been granted anticipatory bail on 06.02.2016 by the Court of learned Additional Sessions Judge, Bathinda. A copy of the application is annexed as Annexure P-8 to the petition.

9. On receipt of the above-mentioned application dated 04.08.2017, the petitioner is stated to have first become aware about the order dated 06.02.2016, whereby accused Jagmit Singh had been granted bail. Therefore, he appeared before the Court of the Additional Chief Judicial Magistrate, Bathinda on the next date i.e. 05.08.2017 and got his statement recorded to the effect that accused Jagmit Singh had been granted interim bail but he had not disclosed this fact at the time of issuance of arrest warrants. A copy of the order/statement dated 05.08.2017 is annexed as Annexure P-9 to the petition.

10. On the same day i.e. on 05.08.2017, the Additional Chief Judicial Magistrate, Bathinda directed the Reader of the Court to file a complaint against the petitioner for furnishing false information to the Court under Section 177 IPC read with Sections 340 and 195 Cr.P.C. A copy of the order dated 05.08.2017 is annexed as Annexure P-10 to the petition.

11. In compliance of the above-mentioned order, the Reader attached to the Court of the Additional Chief Judicial, Magistrate,

Bathinda filed the impugned complaint dated 10.08.2017 against the petitioner before the Chief Judicial Magistrate, Bathinda. A copy of the complaint dated 10.08.2017 is annexed as Annexure P-11 to the petition.

12. Thereafter, the complaint was transferred to the Court of the Judicial Magistrate, 1st Class, Bathinda who vide order dated 23.08.2017 issued summons to the petitioner for 13.09.2017. A copy of the order dated 23.08.2017 is annexed as Annexure P-12 to the petition.

13. The petitioner appeared before the Court on 13.09.2017, sought bail which was granted. Pursuant thereto, the present petition for quashing has been filed by him.

14. Notice of motion was issued pursuant to which a reply dated 04.07.2018 had been filed by way of an affidavit of Davinder Singh, PPS, Deputy Superintendent of Police, City-I, Bathinda, which is already on record.

15. As per the reply, on 06.02.2016 when the bail application of accused Amarjit Singh had come up for hearing before the Court of Additional Sessions Judge, Bathinda, the Investigating Officer of the case namely, ASI Ramesh Kumar did not produce the record of the case nor was his statement recorded by the Additional Sessions Judge, Bathinda. As per the reply, it was Vikas Kumar counsel for the accused Jagmit Singh who had argued that since he had joined investigation, he be granted the concession of bail without this fact ever having been verified from the Investigating Officer of the case. Even thereafter, the accused had not produced a copy of the order dated 06.02.2016 before the Investigating Officer nor did he join investigation and therefore, the order dated 06.02.2016 was not available on the police file.

It is stated in the reply that the petitioner had moved an application on 24.07.2016 for issuance of production warrants of Jagmit Singh accused, who was confined in District Jail, Sri Mukhtsar Sahib in another FIR No.57/2013 under Section 307 IPC, at Police Station Dharmgarh, District Sangrur. He had been arrested on 27.07.2017 with the prior permission of the Additional Chief Judicial Magistrate, Bathinda and was remanded to judicial custody. Even at this stage, the accused had failed to disclose to the Magistrate that he had been granted anticipatory bail on 06.02.2016. Thus, it was stated in the reply that it could be presumed that the accused himself and his counsel as well as the Investigating Officer of the case were not aware of the fact that the anticipatory bail had been granted to the accused on 06.02.2016. It has been categorically mentioned in the reply that since the accused had not been arrested nor had he joined investigation, therefore he was arrested on 27.07.2017 by the petitioner and was remanded to judicial custody. Therefore, the petitioner could not be liable for having committed an offence under Section 177 IPC. In fact, there was no record in the file that accused Jagmit Singh had ever joined investigation prior to 27.07.2017.

Thus, it is the categoric case of the State that the mistake if any was of the accused Jagmit Singh and of his lawyer Vikas Kumar, wherein they had not disclosed the fact that anticipatory bail had been granted to Jagmit Singh on 06.02.2016. Even when the accused was arrested on 27.07.2017 through production warrants even on that date he had not mentioned that he had investigation joined and anticipatory bail had been granted and his lawyer was also present on that day. Thus, as

Ranjit Singh (the petitioner) who arrested the accused was ever aware that accused Jagmit Singh had in fact been granted anticipatory bail and therefore, it cannot be said that he has committed any offence at all.

16. The learned counsel for the petitioner contends that the petitioner was entrusted with the investigation on 22.09.2016. In fact, there is no record on the police file of the application for anticipatory bail having been moved by Jagmit Singh in 2016 or any orders having been passed on the said application. He contends that neither the accused Jagmit Singh nor his counsel Vikas Kumar ever revealed to the Court that he had been granted anticipatory bail vide order dated 06.02.2016. The Additional Chief Judicial Magistrate, Bathinda did not appreciate the fact that the petitioner did not have any intention of misleading the Court, when there was no record available on the file about the arrest of Jagmit Singh or of his having subsequently been granted anticipatory bail. The petitioner had not even sought his police remand and the application was made only to effect his formal arrest in the case and thus, no prejudice was caused to Jagmit Singh. The Additional Chief Judicial Magistrate, Bathinda had proceeded with undue haste in ordering the prosecution of the petitioner without conducting an inquiry or verifying the facts of the case. He ought to have perused the record of the police file or got the same done from the Police Department in order to determine the culpability of the petitioner. In the present case, the facts as narrated hereinabove would show that there was absolutely no intention on the part of the petitioner to mislead the Court by giving a false statement and nor did any benefit accrued to the petitioner or any corresponding loss to accused Jagmit Singh. He thus, contends that the proceedings arising out

of the order dated 05.08.2017 (Annexure P-10) ought to be quashed, in the interest of justice.

17. The learned State counsel while referring to the reply conceded that in fact, when accused Jagmit Singh was granted bail on 06.02.2016, the Investigating Officer of the case namely, ASI Ramesh Masih had not produced record of the case nor had his statement been recorded when the anticipatory bail was confirmed. Further, there was absolutely no evidence of the bail having been granted, available on the police file for the perusal of the petitioner. When accused Jagmit Singh was formally arrested on 27.07.2017 with the prior permission of the Court, even at that time, he failed to disclose that he had been granted anticipatory bail on 06.02.2016. Even his counsel Mr. Vikas Kumar did not disclose the same. In fact, there was no record on the file that Jagmit Singh accused had ever joined investigation prior to 27.07.2017 and therefore, if the petitioner had arrested the accused without being aware of the fact that he had been granted anticipatory bail, the same could termed as an irregularity and would not amount to the commission of an offence as has been sought to be made out.

Effectively, the learned counsel for the State has supported the contentions raised by the petitioner that no offence could be said to have been committed by the petitioner.

18. I have heard the learned counsel for the parties at considerable length.

19. Before proceeding in the matter, it would be necessary to examine the relevant provisions of law:

Section 195 Cr.P.C., reads as under:-

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

(1) No Court shall take cognizance-

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), except on the complaint in writing of that Court, or by such officer of the court as that court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such

order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub- section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court in situate:

Provided that-

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.”

Section 340 Cr.P.C., reads as under:-

340. Procedure in cases mentioned in section 195.-

(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub- section

(1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,-

(a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having jurisdiction;

(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non- bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub- section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub- section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub- section (4) of section 195.

(3) A complaint made under this section shall be signed,-

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.

(4) In this section, " Court" has the same meaning as in section 195.

Section 177 IPC, reads as under:-

“177. Furnishing false information.—Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Illustrations

(a) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound under clause, 5, section VII, 1 [Regulation III, 1821], of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest police station, wilfully misinforms the police officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the later part of this section.

Explanation.—In section 176 and in this section the word “offence” includes any act committed at any place

out of which, if committed in India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word “offender” includes any person who is alleged to have been guilty of any such act.”

20. The circumstances in which proceedings under Section 195/340 Cr.P.C. ought to be initiated have been deliberated upon by the Hon’ble Supreme Court in a number of judgments and one of the landmark judgment in this regard is the case of **Iqbal Singh Marwah & another Versus Meenakshi Marwah & another**, 2005(4) SCC 370, in which it was held as under:-

*“18. In view of the language used in **Section 340 CrPC** the court is not bound to make a complaint regarding commission of an offence referred to in **Section 195(1)(b)**, as the section is conditioned by the words “court is of opinion that it is expedient in the interests of justice”. This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in **Section 195(1)(b)**. This expediency will normally be judged by the court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice.”*

21. Coming back to the facts of the present case, the allegations against the petitioner are that he deliberately made a statement to the Court that accused Jagmit Singh son of Atma Singh had not been arrested

in FIR No.188 dated 19.11.2015 and therefore, committed the offence in question because being the Investigating Officer of the case, he had furnished false information twice before the Court regarding the bail of the accused Jagmit Singh.

22. The record of the case would reveal that the investigation in FIR No.188 dated 19.11.2015 had been entrusted to the petitioner on 22.09.2016. The fact that accused Jagmit Singh had been granted bail on 06.02.2016 was not a part of the record in the file of the said FIR. This has been admitted in the State reply. Further, even the report under Section 173 Cr.P.C. submitted against accused Jagmit Singh shows that proceedings to declare him a proclaimed offender were to be initiated. It was in these circumstances that the petitioner had made a statement in Court that Jagmit Singh had not been arrested, firstly, on 24.07.2017 and thereafter on 27.07.2017. Interestingly, it was on 04.08.2017 that for the first time an application for correction in the jail warrant was moved, wherein, it was mentioned that Jagmit Singh accused had been granted anticipatory bail on 06.02.2016. On the very next day i.e. 05.08.2017, the petitioner made a statement to the learned Additional Chief Judicial Magistrate, Bathinda that he had not disclosed the fact of Jagmit Singh having been granted anticipatory bail and without conducting any inquiry or examining the record, the impugned order dated 05.08.2017 (Annexure P-10) came to be passed, wherein the Court directed the Reader of the Court to file a complaint against the petitioner for furnishing false to the Court under Section 177 IPC.

23. It is significant to note that neither the accused Jagmit Singh nor his lawyer Vikas Kumar ever disclosed it to the Court during the course of proceedings upto 04.08.2017 that he had been granted the

concession of anticipatory bail on 06.02.2016. In this view of the matter, the question of the petitioner facing prosecution would not arise.

24. Pertinently, had the learned Additional Chief Judicial Magistrate, Bathinda ordered the holding of an inquiry or conducted one himself pursuant to the recording of the statement of the petitioner on 05.08.2017, he would have come to the conclusion that the actions of the petitioner were completely inadvertent and there was absolutely no intention to mislead the Court. In fact, had the record of the concerned Police Station been called for, the file itself would have spoken of the innocence of the petitioner inasmuch as there was no document on the file dated 06.02.2016 showing that the accused Jagmit Singh had been granted bail. All these facts have otherwise been admitted in the reply of the State. Even otherwise, the Hon'ble Supreme Court in the case of **Iqbal Marwah** (supra) has stated that it is not in every case that an inquiry should be ordered or proceedings initiated under Section 340 Cr.P.C. The Court ought to hold a preliminary inquiry and record a finding to the effect that it was expedient in the interest of justice that an inquiry should be made. The expediency would be judged by the Court by weighing not the magnitude of the injury suffered by the person affected but having regard to the effect or impact such commission of an offence has upon the administration of justice. In the present case, no loss has been caused to accused Jagmit Singh and the petitioner has gained nothing. By making a false statement inadvertently in Court proceedings, no wrong order has been passed by the Court which would amount to effecting the administration of justice.

25. Examining the matter from another perspective, a reading of

would amount to an offence only if it is made with the knowledge that the said statement is false or if the person concerned has reasons to believe it to be false. In the present case, there is nothing on record to even remotely substantiate that the petitioner was aware that he was making a false statement when he stated that accused Jagmit Singh had not been granted bail. In fact quite to the contrary, the moment he became aware on 04.08.2017 (as per application Annexure P-8), on the very next day i.e. 05.08.2017 (as per Annexure P-9), he made a statement to the Court that in fact Jagmit Singh had been granted interim bail. Therefore, no fault can be found with the conduct of the petitioner and even on the merits of the case an offence under Section 177 of the IPC would not be made out.

26. In view of the aforementioned discussion, I find merit in the case of the petitioner and therefore, the order dated 05.08.2017 (Annexure P-10) vide which the Court of learned Additional Chief Judicial Magistrate, Bathinda ordered filing of a complaint, the criminal complaint dated 18.08.2017 filed thereon (Annexure P-11), summoning order dated 23.08.2017 (Annexure P-12) and all subsequent proceedings arising therefrom are hereby quashed.

(JASJIT SINGH BEDI)
JUDGE

10.10.2022
JITESH

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No