

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-36555-2021 (O&M)

Date of decision: 10.05.2022

Gurdeep Singh

... Petitioner

Vs.

State of Punjab

... Respondent

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present: Mr. Sunny K. Singla, Advocate  
for the petitioner.

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**ARVIND SINGH SANGWAN, J. (ORAL)**

Prayer in this petition is for quashing of FIR No.35 dated 25.05.2015 under Sections 342, 384 of the Indian Penal Code (for short 'IPC') (offence under Sections 365, 389, 34 IPC was added later on), registered at Police Station Sadar Ahmedgarh, District Sangrur and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner submits that the FIR was registered at the instance of one Mohan Singh, with the allegations that he is a Mason and president of a committee of the village. It is stated that one of his son was forcibly taken in a vehicle and the accused forced him to sell poppy husk by giving a plastic bag and further demanded Rs.50,000/-. It is further submitted that two co-accused of the petitioner, namely Hardeep Singh @

Deepa and Sukhwinder Singh @ Happy faced full length trial and the Additional Sessions Judge, Sangrur, vide judgment dated 20.04.2021, acquitted them, by recording the following findings: -

*“23. In a criminal case, the prosecution is bound to prove its case against the accused beyond reasonable doubt. All the above material contradictions and improvements clearly show that it is not a case where the prosecution has been able to prove the guilt of the accused beyond reasonable doubt and rather it is a case where the entire prosecution version is very doubtful. The complainant has gone to the extent of the saying that he never recorded any statement before the police and that police obtained his signatures on blank papers and he even denied recording the statement Ex.PA before the police, which is the very basis of the entire case.*

*Further the star witness of the prosecution Amandeep Singh PW-3 has gone to the extent of the saying that he got the case registered against the accused after consultation with his father and others and he also denied suffering any statement before the police and deposed that the basis of entire case was infact a complaint submitted by him and his father, whereas there is no such complaint on record.*

*Another star witness of the prosecution PW-7 Chamkaur Singh, who was allegedly picked up by the accused along with PW-3 Amandeep Singh has deposed in his cross-examination that*

*firstly he never got recorded any statement to the police and secondly he has no personal knowledge about the facts of this case. He further made a very material improvement to the effect that he received injuries and got his X-ray done, which is not proved or substantiated from the evidence on record.*

*24. All the above mentioned contradictions and improvements which have been elicited during the cross-examination of the prosecution witnesses have been totally ignored by the learned Trial Court. These material contradictions and improvements strike at the very root of the case of the prosecution and clearly show that the entire prosecution version is doubtful. Thus, I have no hesitation in holding that the learned Trial Court committed a grave illegality by convicting the accused vide impugned Judgment and sentencing them vide the impugned order of even date. Accordingly, the impugned Judgment of conviction and order of sentence cannot be sustained and are set aside and the present appeal is hereby allowed and appellants-accused are acquitted of the charges framed against them. Trial Court record be returned along with the copy of this judgment. The appeal file be consigned to Record Room, Sangrur.”*

Learned counsel further submits that the petitioner, initially, was not arrested and later on, he surrendered before the trial Court and was granted the concession of regular bail vide order dated 06.05.2021. It is also submitted that in view of the judgment dated 20.04.2021 passed by the Additional

Sessions Judge, Sangrur, acquitting two aforesaid co-accused, there is no possibility for the prosecution to bring any fresh evidence, therefore, case of the petitioner is squarely covered by a judgment passed by Division Bench of this Court in **Sudo Mandal @ Diwarak Mandal Vs. State of Punjab, 2011 (3) RCR (CrI.) 453.**

Learned counsel has placed on record photocopy of the receipt regarding deposit of Rs.1.00 lac with the Punjab and Haryana High Court Lawyers' Welfare Fund, in compliance of the order dated 02.05.2022.

Reply by way of affidavit of Deputy Superintendent of Police, Sub Division Ahmedgarh, District Malerkotla is on record, in which, after verifying facts of the case, it is stated that impugned FIR was registered under Sections 342, 384 IPC and challan was presented under Sections 365, 389, 34 IPC against co-accused Hardeep Singh @ Deepa and Sukhwinder Singh @ Happy, as proceedings for declaring proclaimed offender were pending against the petitioner and he was declared proclaimed offender on 13.10.2016. It is further stated that on 30.04.2021, the petitioner was arrested and was released on bail by the trial Court. It is next stated that co-accused Hardeep Singh @ Deepa and Sukhwinder Singh @ Happy were convicted by the trial Court vide judgment of conviction and order of sentence dated 14.11.2018, however, in an appeal filed by them, they were acquitted of the charges vide judgment dated 20.04.2021 passed by the Additional Sessions Judge, Sangrur.

After hearing learned counsel for the parties and considering aforesaid facts and circumstances of the case and also going through judgment of the lower appellate Court, in which it is observed that the prosecution has not

been able to prove the guilt against the co-accused as well as the fact that allegations against the petitioner and aforesaid co-accused are similar and no overt act is attributed towards the petitioner, I find that prosecution of the petitioner is nothing, but misuse of process of law, in view of Division Bench judgment of this Court in **Sudo Mandal @ Diwarak Mandal**'s case (supra).

Accordingly, this petition is allowed and FIR No.35 dated 25.05.2015 under Sections 342, 384 IPC (offence under Sections 365, 389, 34 IPC was added later on), registered at Police Station Sadar Ahmedgarh, District Sangrur and all the subsequent proceedings arising therefrom, are ordered to be quashed, qua the petitioner.

[ **ARVIND SINGH SANGWAN** ]  
**JUDGE**

10.05.2022  
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No