

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54601 of 2022 (O&M)

DECIDED ON:29th November, 2022

Tejinder Singh

.....PETITIONER

VERSUS

State of Haryana and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Sandeep Singh, Advocate for petitioner.

Mr. Gurmeet Singh, AAG Haryana.

AVNEESH JHINGAN, J (ORAL)

1. This petition under Section 340 Cr.P.C. is filed for initiation of proceedings against respondent No.2 for filing a false affidavit in this Court in CRM-M-12083 of 2022 and other connected matters, arising out of FIR No. 965 dated 13.10.2021, under Sections 148, 149, 307, 323, 325, 506 IPC and Section 25 of Arms Act, registered at Police Station Karnal Sadar, District Karnal.

2. From the pleadings it is forth coming that FIR was registered at the instance of the petitioner. An incident took place and the root cause was the possession of the land. Injuries were inflicted by accused to the complainant party. Accused-Renu, Amit Gora and Rahul filed petition under Section 439 Cr.P.C. seeking regular bail. The petition was allowed on 5.9.2022.

3. The grievance is that in the affidavit filed by respondent No.2-DSP Karnal, in response to the bail applications, it was stated that the accused were involved in four FIRs but wrongly mentioned that two FIRs

were cancelled. Infact actually only one FIR was cancelled, further that another FIR No. 271 dated 10.8.2020, under Section 323, 34, 506 IPC, was not mentioned.

4. Learned counsel for petitioner submits that the petitioner has already filed the petition for cancellation of bail.

5. From the perusal of the order dated 5.9.2022, it is evident that accused were granted bail considering the role attributed; they were behind bars for nine months and that their further detention would not serve any useful purpose and further that conclusion of trial is likely to take time. The operational part of the order is quoted below:

"Since learned State counsel informed that the petitioner Amit Gora (in CRMM- 12811-2022) and petitioner Rahul (in CRMM-15584-2022) have otherwise been behind bars since the last about 9 months, this Court is of the opinion that, further detention of the petitioners Amit Gora and Rahul will not serve any useful purpose as conclusion of trial is likely to consume time. The petitions i.e. CRMM-12811-2022 and CRMM-15584-2022 on behalf of petitioners Amit Gora and Rahul, respectively, as such, are accepted and the petitioners Amit Gora and Rahul are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned."

6. The law is well settled that proceedings under Section 340 Cr.P.C. are to be initiated in exceptional circumstances and considering the impact of commission of offence upon the administration of justice. Reliance is placed upon the decision of the Supreme Court in ***R.S. Sujatha Versus State of Karnataka and others 2011(5) SCC 689*** wherein it has been held as under:

"12. Thus, from the above, it is evident that the inquiry/contempt proceedings should be initiated by the court in exceptional circumstances where the court is of the opinion that perjury has been committed by a party deliberately to have some beneficial order from the court. There must

be grounds of a nature higher than mere surmise or suspicion for initiating such proceedings. There must be distinct evidence of the commission of an offence by such a person as mere suspicion cannot bring home the charge of perjury. More so, the court has also to determine as on facts, whether it is expedient in the interest of justice to inquire into the offence which appears to have been committed."

6.1 *The Supreme Court in **Iqbal Singh Marwah and another Versus Meenakshi Marwah and another, 2005(4) SCC 370** has held as under:*

"18. In view of the language used in [Section 340](#) Cr.P.C. 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 interest 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\(i\)\(b\)](#). 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. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in Court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the Court may not consider it expedient in the interest of justice to make a complaint. The broad view of clause (b)(ii), as canvassed by learned counsel for the appellants, would render the victim of such forgery or forged document remedyless. Any interpretation which leads to a situation where a victim of a crime is

rendered remedyless, has to be discarded."

...(emphasis supplied)

7. Heard learned counsel for the petitioner at length and pursued the pleadings. It is evident that the bail was granted to the accused considering the allegations, role attributed, their custody period and the fact that conclusion of trial is likely to take time.

8. In the facts of the present case, it would not be expedient to initiate an inquiry for filing an affidavit in which one FIR was wrongly shown as cancelled. Moreso, when it has not affected the outcome of petition filed under Section 439 Cr.P.C.

9. The petition is dismissed.

10. Since the main case has been decided, the pending application, if any is rendered infructuous.

29th November, 2022

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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned *Yes*

Whether reportable *No*