

CRR-613-2017 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-613-2017 (O & M)

Date of decision: 29.10.2022

Satnam Singh

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. V.K. Sandhir, Advocate, for the petitioner.

Mr. Jaiteshwar Singh, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

CRM-5539-2017

This is an application seeking condonation of delay of 26 days in filing the present revision petition.

For the reasons mentioned in the application, the same is allowed and the delay of 26 days in filing the present revision petition is condoned.

CRR-613-2017 (O & M)

The present revision petition has been preferred against the order dated 10.07.2013 passed by the Additional Deputy Commissioner of Police-cum-Executive Magistrate, Amritsar, whereby the petitioner has been bound down with the surety of Rs.1,00,000/- for a period of one year in a *Kalandra* presented by the Police Station, Sultanwind and order dated 05.09.2016 passed by the Additional Sessions Judge, Amritsar whereby the appeal filed by the petitioner against the order dated 10.07.2013 has been dismissed.

2. The brief facts of the case are that the instant *Kalandra* was filed against the petitioner/accused-Satnam Singh by the Investigating Officer, Sultanwind, Amritsar that there was a breach of peace due to the act of the petitioner. The *Kalandras* were initiated on the application moved by the complainant Surjit Singh and Gurpreet Singh and the Court of Additional Deputy Commissioner of Police-cum-Executive Magistrate, Amritsar, bound down the petitioner for one year with Rs.1,00,000/- as surety vide order dated 10.07.2013.

Against the said order, an appeal was preferred, which came to be dismissed by the Court of Additional Sessions Judge, Amritsar vide order dated 05.09.2016.

These orders are under challenge in the present petition.

3. The learned counsel for the petitioner contends that the petitioner was not given an opportunity to lead any evidence and no evidence had been produced by the prosecution in order to prove the offence against him. Neither was the statement of the complainant recorded nor was any other witness examined as a prosecution witness, and thus, the petitioner was wrongly ordered to submit the surety of Rs.1,00,000/- for one year.

The provisions of the Code of the Criminal Procedure, were not complied with. In fact, the report No.42 is a one-sided report and does not disclose as to what type of breach of peace was apprehended from the side of the petitioner.

The petitioner was also not provided sufficient opportunity to lead evidence and the order of surety of Rs.1,00,000/- for one year was passed in a biased manner without application of mind. In fact, on the same

The Lower Appellate Court had also summarily rejected the appeal of the petitioner only by relying upon one Zimni order but has not appreciated the evidence brought on record by the petitioner. The reasoning adopted by the Lower Appellate Court that the petitioner had not cross-examined the witnesses produced by the prosecution is also fallacious.

4. The learned counsel for the State, on the other hand, contends that there were specific allegations against the petitioner levelled by the complainant-Surjit Singh and Gupreet Singh that he tried to commit breach of peace by way of threatening them and as such, the *Kalandras* were rightly presented. He was given an opportunity to cross-examine the witnesses but he failed to do so as was apparent from the Zimni orders. The petitioner was aware of the pendency of the proceedings being conducted against him. Even otherwise, in terms of the judgment dated 13.09.2022 passed by this Court in a case titled as 'Gurdial Singh versus State of Punjab and another (CRR-5009-2015)', the petitioner had already undergone the sentence imposed upon him, and thus, there was no requirement for this Court to go into the legality or propriety of the impugned orders.

5. I have heard the learned counsel for the parties.

6. A perusal of the impugned order dated 10.07.2013 would show that the petitioner-accused Satnam Singh was present in the Court but did not produce any witness in defence. However, he was heard and the *Kalandra* and statements of the witnesses were examined. Only thereafter, did the order dated 10.07.2013 come to be passed. Even otherwise, the impugned order was passed on 10.07.2013, and the petitioner was bound down for one year with Rs.1,00,000/- as surety for maintaining peace. The

Court to go into the legality and propriety of the orders in question in terms of the judgment passed in *Gurdial Singh (supra)*.

7. In view of the above, I find no merit in the present petition and the same is therefore dismissed.

(JASJIT SINGH BEDI)
JUDGE

October 29, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No