

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9021-2021

Date of Decision: 14.03.2023

Inderjit Singh

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. RS Bains, Sr.Advocate with
Mr. Mohan Lal Chauhan, Advocate for the petitioner

Mr. Mohit Chaudhary, AAG Punjab

Sandeep Moudgil, J.

The petitioner prays for expunging/deleting the undeserving and disparaging harsh remarks and observations made against him in the order dated 07.08.2020 (Annexure P15) passed by this Court in CRM-M-19751-2020, which according to the petitioner is not necessary in the facts of the case.

The brief facts of the case are that as per the reliable information given to the office of ADGP, STF, Punjab, that he had heard in district Tarn Taran that an enquiry was being conducted by STF regarding cases registered by Inderjit Singh, former Inspector CIA remained posted at Tarn Taran. The source stated that he was aware of the activity and role of Inderjit Singh who had worked in Tarn Taran for a long period and further informed that Inspector Inderjit Singh was involved in nefarious activities with smugglers of narcotics. The source further stated that Inderjit Singh, Inspector during the year 2013 and 2014 played a big role in providing protection to the said smugglers as well as abetting the smugglers of narcotics operating in his

jurisdiction including while they were in his custody. The source further informed that Inspector Inderjit Singh himself has also been organizing smuggling and trafficking of narcotics through various associates. Inspector Inderjit Singh has made recoveries of narcotics but the said recoveries were made with the motive to obtain illegal gratification from the smugglers in his custody and on the promise of helping said smugglers in the cases and later, some of the said smugglers of narcotics got acquitted. The cover of recoveries has been used by Inspector Inderjit Singh to participate in the drug trade. Upon receipt of the said information and an analysis of cases in which the accused gets acquittal despite of having commercial quantity of narcotics, the office of IGP, Border Zone has been asked to enquire some cases of district Tarn Taran and called for the record. Vide Memo No.1128-33/PA/ADGP/STF Dated 28.04.2017, the STF Headquarters had initiated the process of analysis of cases registered in various Police Stations of the State of Punjab in which commercial quantity of narcotics were recovered during the period of last five years and it has been found that in certain important cases of large recoveries of narcotics involving the smugglers, the accused were acquitted due to failure of prosecution to prove the commission of offence as also the investigation was entrusted to a substantive rank Head Constable instead of a higher rank official as required by law in the case FIR No. 155 dated 1.10.2013 U/s 21/29 NDPS Act, 1985 P.S. Sarhali, District Tarn Taran it was found that the accused in the said case were acquitted by the Trial Court on 23.3.2017 and one of the grounds was that Inspector Inderjit Singh who held the substantive rank of Head Constable at the time of registration of case and subsequent investigation and thereby, he was not

competent to investigate the case as per provisions of the NDPS Act, 1985. As per the State Government Notification NO. S.O. 33/C.A. 61/85/SS 42 and 67/87 dated 3rd, September, 1987 issued under the provisions of the N.D.P.S. Act, 1985, the officer of rank of Assistant Sub Inspector of Police is the competent officer to exercise the powers and perform the duties specified in sections 42 and 67 of NDPS Act within the area of their respective jurisdiction. It has been clarified by a number of orders of the police department as well as court judgments that only officers holding substantive rank of ASI and above are competent to investigate cases registered under the provision of the NDPS Act, 1985. Therefore, a detailed report was sought from the IGP/Border Zone, Amritsar by the office of ADGP, STF, Punjab. In the report dated 09.06.2017, it was mentioned that the responsibility of acquittal of the accused is of the petitioner and Jaswant Singh, former DSP, Investigation.

The petitioner had earlier filed CRM-M-19751-2020 praying for grant of regular bail in FIR No.01 dated 12.06.2017 and the said petition was dismissed by a Coordinate Bench vide judgment dated 07.08.2020, inter alia, with the following observations:-

“Considering heavy recovery and the fact that petitioner, being a Police Inspector in Punjab Police, taking advantage of his rank, was acting as a conduit of smugglers, which shows that he is virtually an extremist and can sell Nation for the sake of money, therefore, this Court is not inclined to grant bail to the petitioner.”

It is against these very remarks viz. “acting as a conduit of smugglers”, “extremist” and “can sell Nation for the sake of money”, that

the petitioner has approached this Court vide instant petition invoking Section 482 CrPC for expunging the aforesaid remarks.

Learned counsel for the petitioner vehemently contended that the courts should not make adverse remarks against party/litigant unless really necessary for just decision of the case and opportunity of hearing should be afforded before making such remarks. He further argued that in the present case also, it was not really necessary for just decision of the case/regular bail petition/CRM-M-19751-2020 to make adverse remarks against the petitioner as neither there is any evidence against the petitioner for giving such undeserving and disparaging harsh remarks/observations against the petitioner, nor any opportunity of hearing was afforded to the petitioner before making such remarks / observations and the said remarks / observations have been passed while ignoring the complete pleadings of bail petition / CRM-M- 19751-2020 (Annexure P-14) and against the facts, evidence and pleadings on record.

It is further contended that the facts, circumstances, documents and evidence on records clearly shows that the above said disparaging harsh remarks and observations passed against the petitioner by this Court vide order dated 07.08.2020 (Annexure P-15) in CRM-M-19751-2020, is not based on the evidence on record and the remarks made by this Court are unwarranted and were absolutely unnecessary for proper adjudication of the regular bail petition/CRM-M-19751-2020. He also submits that the said remarks and observations made against the petitioner will affect the right of the accused-petitioner enshrined under Article 21 of the Constitution of India i.e. Right to Fair Trial, which is first imperative of dispensation of justice, in

case / FIR No. 01 dated 12.06.2017 (Annexure P-4) registered against the petitioner, and will also affect his reputation, integrity and the conduct of the Court while passing the said remarks/observations are wholly unsustainable and bad in the eyes of law.

Learned counsel has relied upon **State U.P. v. Mohammad Naim, AIR 1964 SC 70** wherein the Constitution Bench of the Supreme Court has held that the High Court can, in exercise of its inherent jurisdiction, expunge remarks made by it or by a lower court, if, it be necessary to do so to prevent abuse of the process of the court or otherwise to secure the ends of justice and that the jurisdiction is however of an exceptional nature and has to be exercised in exceptional cases only. The Bench also laid-down the test in considering the expunction of disparaging remarks made against persons or authorities whose conduct comes for consideration before the Court of law to be decided by them, it is relevant for the Court to consider

*“(a) whether the party whose conduct is in question is before the court or has an opportunity of explaining or defending himself;
(b) whether there is evidence on record bearing on that conduct justifying the remarks ; and
(c) whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct. It has also been recognised that judicial pronouncements must be judicial in nature, and should not normally depart from sobriety, moderation and reserve.”*

Reliance has also been placed on **Niranjan Patnaik vs. Sashibhusan Kar & Anr. (1986) 2 SCC 569** wherein the Supreme Court held

that harsh or disparaging remarks are not to be made against persons and authorities whose conduct comes into consideration before courts of law unless it is really necessary for the decision of the case, as an integral part thereof to animadvert on that conduct.

In (i) AM Mathur vs. Pramod Kumar Gupta & Ors. (1990) 2 SCC 533, (ii) Manish Dixit & Ors. vs. State of Rajasthan AIR 2001 SC 93, (iii) Prakash Singh Teji vs. Northern India Goods Transport Co.P.Ltd. & Anr. 2009 AIR SCW 3078, the Supreme Court emphasized the need for judicial restraint and discipline for orderly administration of justice and it is a general principle of the highest importance to the proper administration of justice that derogatory remarks ought not to be made against persons or authorities whose conduct comes into consideration unless it is absolutely necessary.

Notice of motion was issued on 22.04.2021 and thereafter, reply dated 17.08.2022 has been filed by Raj Kumar PPS, DSP, STF, Jalandhar Range, Jalandhar wherein the observations/remarks made by this court vide order under challenge has been justified stating that FIR No.1 dated 12.06.2017 was got registered against the petitioner on account of having extended undue advantage to the accused in the 3 FIRs i.e FIR No. 155 dated 1.10.2013 U/s 21,29 NDPS Act, 1985 PS Sarhali, District Tarn Taran, FIR No. 85 dated 04.07.2013 U/s 15/61/85 NDPS Act PS Sarhali District Tarn Taran and FIR No. 100 dated 14.08.2013 U/s 21 NDPS Act, PS Sarhali, District Tarn Tarn. Resultantly, the accused in the said 3 FIRS were got acquitted by the respective Courts.

Mr. Mohit Chaudhary, AAG Punjab further submitted that during the course of investigation of FIR No. 01 dated 12.06.2017 (Supra), a recovery of 4 Kg heroin and 3 kg Smack has been made by the Police from the petitioner Inderjit Singh. Apart from it, various illegal arms and ammunition as mentioned above have been recovered from the petitioner Inderjit Singh. He further vehemently supported the remarks made in the order dated 07.08.2020 on the ground that during the investigation of above-said FIR No. 01 dated 12.06.2017 (Supra), the Police have found that the petitioner has caused loss to the state and the above-said actions of the petitioner encourages drug traffickers, causes damage to life, health and security of society as well as destruction of the social fabric.

Learned State counsel then exhorted that it was the duty of the petitioner to act against drug traffickers rather than willfully connive, abet and conspire with them to escape the law for the motive of gaining personal benefits. Moreover, the recovery of above-said 4 Kg heroin and 3 kg Smack from the petitioner clearly shows his connivance and involvement with the smugglers.

Heard learned counsel for the parties and gone through the case file.

For better understanding and to assimilate the reasons which led to the impugned observations, the order dated 07.08.2020 needs to be reproduced which reads as under:-

“Th this petitioner under Section 439 Cr.P.C., prayer has been made for grant of regular bail to petitioner in case FIR No. 01 dated 12.06.2017 registered under Section 59(2)(b), 21 and

22 of the NDPS Act; Sections 218, 466, 471, 120-B, 384 and 482 IPC and Section 25 of the Arms Act at Police Station Special Task Force, Phase IV, Mohali, District SAS Nagar (Mohali).

Learned counsel inter alia contends that petitioner has falsely been implicated in the instant case. While serving as Inspector in Punjab Police, he had exposed the nexus between the drug smugglers and the employees/officials of Forensic Science Laboratory, Punjab, Kharar, District SAS Nagar (Mohali), in which smugglers, dealing at higher level used to get the samples of Narcotic Drugs and Psychotropic Substances, failed and get negative report in their favour by giving huge bribe to them. Petitioner is in custody since 12.06.2017. Conclusion of trial may take a sufficient long time, inasmuch as, out of total 58 prosecution witnesses, only 18 have been examined by the trial Court in this span of more than three years. No useful purpose would be served by detaining the petitioner in custody.

On the other hand learned State counsel vehemently opposed the submissions of learned counsel for the petitioner submitting that there is very heavy recovery from the petitioner i.e. Rs.16,60,000/- in cash, 3,350 British Pounds, 2 AK 47 Rifles along with live cartridges, one revolver, one pistol, 4 kgs of heroin and 3 kgs smack. Petitioner taking advantage of his official capacity as a Police Inspector, was heavily indulged in illicit narcotic trade.

Considering heavy recovery and the fact that petitioner, being a Police Inspector in Punjab Police, taking advantage of his rank, was acting as a conduit of smugglers, which shows that he is virtually an extremist and can sell Nation for the sake of money, therefore, this Court is not inclined to grant bail to the petitioner.

Dismissed.”

The allegations against the petitioner in the FIR No.01 dated 12.06.2017 were that there is very heavy recovery from the petitioner i.e. Rs.16,60,000/- in cash, 3,350 British Pounds, 2 AK 47 Rifles along with live cartridges, one revolver, one pistol, 4 kgs of heroin and 3 kgs smack. Petitioner taking advantage of his official capacity as a Police Inspector, was heavily indulged in illicit narcotic trade. Besides the petitioner extended undue advantage to the accused in various FIRs which led to acquittal of the accused persons. Apart from it, various illegal arms and ammunition as mentioned above have been recovered from the petitioner Inderjit Singh and as such the said action has caused loss to the state and the above-said actions of the petitioner encourages drug traffickers, causes damage to life, health and security of society as well as destruction of the social fabric. These bunch of serious allegations constrained the Bench to observe the petitioner was 'acting as a conduit of smugglers' since 4 kgs of heroin and 3 kgs smack was recovered from his house.

Further, various illegal arms and ammunitions i.e. 2 AK 47 Rifles along with live cartridges, one revolver, one pistol were also recovered from the petitioner which cannot be expected from an ordinary police personnel. Ultimately, this fact weighed in the mind of the Bench which rightly led to an observation that the petitioner was virtually an 'extremist' coupled with the fact that the petitioner as holding British pounds in addition to lakhs of rupees, itself is self-evident that the petitioner was involved in anti-social and unethical practices of smuggling which has far-reaching consequences affecting the roots of our young generation leading to social extremism.

The proper freedom and independence of judges must be maintained and they must be allowed to perform their functions freely and fearlessly and without undue interference by anybody. It is not infrequent that sweeping generalisations defeat the very purpose for which they are made. This Court is fully sanguine of the fact that there is prima facie observation on record bearing on conduct of the petitioner justifying such remarks by a coordinate Bench of this Court. It is difficult to avoid the reflection that unless an example is made of such officers by taking the most stringent action against them, no improvement in the disciplined force/police administration is possible.

Having discussed the background leading to the filing of this petition, one pertinent aspect needs to be borne in mind that the remarks sought to be expunged by the petitioner, have been recorded by a Single Bench, which cannot be interfered by this Court primarily on the ground that at the time of passing of that order dated 07.08.2020 while dismissing the petition for regular bail might have gone through the record before it, as is evident from a well reasoned order. In case, this Bench entertains the instant petition and interferes/disturbs the recording of observations, it would tantamount to exceeding jurisdiction of the Court irrespective of the fact that the prayer has been made under Section 482 Cr.P.C., in an inherent jurisdiction, which at the same time is to be exercised with due caution, sparingly and not in a casual manner.

In view of the discussions made above and the circumstances involved on the basis of submissions of the learned counsel for respective

parties and perusal of the record, the instant petition fails and same is ordered to be dismissed with no order as to costs.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

14.03.2023
V.Vishal

(Sandeep Moudgil)
Judge

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

Yes/No
Yes/No