

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

250

CRM-M No. 19575 of 2015 (O&M)

Date of Decision: 23.02.2023

SI Sarabjit Singh (Retd.) since deceased through LRs

.....Petitioners

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

**Present:** Mr. L.M.Gulati, Advocate for the petitioner(s).

Mr. Kamalpreet Bawa, AAG, Punjab.

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**AMAN CHAUDHARY, J.**

The present petition has been filed for quashing of FIR No. 75, dated 20.04.2015, under Section 174-A IPC, registered at Police Station City Jagraon, District Ludhiana Rural and all other consequential and incidental proceedings arising thereto.

Learned counsel contends that the petitioner (since deceased), working as ASI in the Punjab Police, was summoned as a witness in case FIR No. 124 dated 17.06.2012, under Section 409 IPC registered at Police Station Division No. 5, Ludhiana by Additional Sessions Judge, Ludhiana on various dates wherein he was unable to appear on account of VVIP duty in different Districts at Malerkotla, Sangrur City and Dhuri and also with regard to Vidhur Jain murder case at Malerkotla. During this period, he had

to also appear in cases before this Court, being an Investigating Officer. Bailable and Non-bailable warrants were also issued for his presence as a witness. He was subsequently declared proclaimed offender on 04.03.2015, whereafter, FIR under Section 174-A IPC was registered against him. It is only on account of the facts stated above, that the petitioner was unable to cause appearance to get his statement recorded as a witness. He however appeared before the learned Sessions Court on 08.05.2015 and filed an application tendering unqualified apology and got his statement also recorded. As such vide order of the even date, the learned Court ordered the release of his salary. His non-appearance was neither intentional nor deliberate but for above stated reasons. The petitioner has since expired on 05.11.2022, whereafter even cancellation report dated 23.12.2022 was presented before the Court in the FIR in question, which is pending consideration. His wife, son and two daughters have been impleaded as petitioners in this case as due to the pendency of the said FIR, the department is not releasing his retiral benefits.

Learned State counsel affirms the factum of the petitioner having appeared before the learned Court on 08.05.2015 and tendered unconditional and unqualified apology for which reference is made to Para 3 of the preliminary submissions of the reply filed by way of affidavit by Mr. Harinder Pal Singh, PPS, DSP, Ludhiana (Rural) and submits that cancellation report in FIR registered under Section 174-A IPC has been presented before the Court, which is pending.

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

As is evident, the petitioner had appeared before the learned Sessions Court on 08.05.2015 and filed an application tendering unqualified apology, whereafter, his statement was also recorded, which previously could not be as he was unable to appear before the Court, for reasons stated above, which being on account of his official pre-occupation, which appeared justified explanation. Even the learned Court also ordered the release of his salary, when he appeared for getting his statement recorded as a witness. However, unfortunately he has since expired. A cancellation report in the said FIR lodged under Section 174-A IPC has also been presented before the Court of competent jurisdiction. The retiral benefits are not being released to the family of the petitioner, due to the pendency of the present FIR.

Hon'ble The Supreme Court of India in the case of **Inder Mohan Goswami and Anr. Vs. State of Uttaranchal and Ors**, 2007 (12) SCC 1, wherein, it was observed that the High Court has inherent power to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court.

Considering the peculiar facts and circumstances of the case and the judgment referred to hereinabove, this Court finds the continuation of proceedings in the said FIR under Section 174-A IPC being an abuse of process of Court.

Resultantly, the present petition is allowed. FIR No. 75, dated 20.04.2015, under Section 174-A IPC, registered at Police Station City Jagraon, District Ludhiana Rural and all other consequential proceedings arising therefrom, are quashed qua the petitioner(s).

23.02.2023  
Rajeev (rvs)/S.Sharma

(AMAN CHAUDHARY)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |