

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.29316 of 2018
Date of decision: 31st May, 2023

Gurjinder Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. B.S. Sodhi, Advocate for the petitioner.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

Mr. Indresh Goel, Advocate for respondent No.2.

Mr. N.K. Manchanda, Advocate for respondent No.3.

MANJARI NEHRU KAUL, J.

1. The instant petition has been preferred under Section 482 Cr.P.C. for quashing of FIR No.40 dated 24.03.2010 under Section 12 of the Passport Act, 1967 (hereinafter referred to as, 'the Act') registered at Police Station Moga Sadar, District Moga.

2. Learned counsel for the petitioner inter alia contends that the FIR in question (Annexure P-1) was registered on an application moved by the complainant i.e. respondent No.3 for initiating action against the petitioner for allegedly obtaining a second passport by suppressing the factum of the existence of his first passport i.e. passport No.T-757518. Learned counsel submits that as per the allegations

levelled in the FIR in question, the petitioner, after obtaining another passport bearing No.E-3031946 in the name of one Gol Singh son of Manjit Singh, i.e. on the basis of false documents and filing wrong affidavit, had violated the provisions of the Passport Rules. Learned counsel, while refuting the allegations levelled in the FIR in question, contends that admittedly, the petitioner had obtained a passport in the year 1994 in his name as Gurjinder Singh son of Manjeet Singh and Sukhdev Kaur through an agent, however, since that passport was misplaced by the agent, it was the agent himself who had then got him issued another passport in the name of Gol Singh son of Manjeet Singh and Sukhdev Kaur. It has been urged that there were no malafides on the part of the petitioner as it was a matter of record that the second passport had never been used by the petitioner. It has still further been submitted that even otherwise, the FIR in question deserves to be quashed as the provisions of Section 15 of the Act had not been adhered to and the mandatory sanction required for prosecution for an offence under Section 12 of the Act had admittedly not been obtained.

3. Learned counsel appearing for respondent No.2 has not been able to dispute the submissions made by learned counsel for the petitioner that the second passport had never been used by the petitioner. Learned counsel has further apprised the Court that the

second passport of the petitioner had since been cancelled by the authorities concerned.

4. Learned counsel for the complainant/respondent No.3 has however, opposed the prayer and submissions made by the counsel opposite by submitting that the petitioner had fraudulently obtained a second passport even though he was already in possession of another passport, and hence, the FIR in question did not deserve to be quashed. However, learned counsel for the complainant/respondent No.3 was unable to controvert that the requisite sanction under Section 15 of the Act had not been obtained prior to the initiation of prosecution against the petitioner.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Before proceeding further, it would be apposite to reproduce the provisions of Section 15 of the Act, which read as under:

“15. Previous sanction of Central Government necessary:- No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government or such officer or authority as may be authorized by that Government by order in writing in this behalf.”

7. A perusal of the aforementioned provisions makes it abundantly clear that no prosecution can be instituted against any

person without the previous sanction of the Central Government or Officer/Authority authorized by the Government in the said regard. Admittedly, in the case in hand, as also conceded and not controverted by learned counsel appearing for respondent No.2, no such sanction, as mandated under Section 15 of the Act, was obtained prior to the initiation of the prosecution of the petitioner. The criminal proceedings initiated against the petitioner would, thus, be unsustainable and liable to be quashed.

8. As a sequel to the above, the petition stands allowed and the FIR (Annexure P-1) as well as all consequent proceedings arising therefrom, are hereby quashed.

(MANJARI NEHRU KAUL)
JUDGE

May 31, 2023
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No