

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

264

CRM-M-38026-2018(O&M)

Date of decision: 29.08.2023

Munef @ Munfed

...Petitioner

Versus

State of Haryana

...Respondent

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

\*\*\*\*

Present : Mr. H.S. Oberoi, Legal Aid Counsel for the petitioner

Mr. Dhruv Sihag, AAG Haryana

\*\*\*\*

**AMAN CHAUDHARY, J.**

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.340 dated 21.08.2012, registered under Sections 148, 149, 323 and 506 IPC (Sections 324, 302 and 341 IPC added later on), at Police Station Puhana, District Nuh (Mewat).
2. The factual matrix of the case from the FIR is that complainant-Wahid along with his nephew was returning from the mosque after offering prayers, where the accused gathered around them and to settle scores gave several blows with their lathis, chatias, farsas, etc. When the complainant raised lalkaras, his son and one other person rushed to the place of occurrence, upon which the accused fled away while stating that today he was saved and if they get a chance, they will kill them. Thereafter, they were taken to the hospital, where his statement was recorded and the FIR was lodged.
3. Learned counsel contends that the petitioner has been falsely

implicated in this case. The other co-accused were acquitted by the trial Court and since none of the witnesses either named or ascribed him any role, the FIR qua him also be quashed.

4. Learned State counsel on the other hand submits that during the course of investigation, the challan was prepared and filed against the guilty persons, including the petitioner. He was also declared a proclaimed offender on 03.08.2013, pursuant to which, an FIR stands registered under Section 174A IPC, on 02.08.2018, at Police Station Punhana, though he was arrested on 03.08.2018. The trial qua petitioner is going on and 2 prosecution witnesses already stand examined. The acquittal of co-accused cannot be a ground to quash the FIR registered against the petitioner. He makes a reference to the reply filed to the present petition by way of affidavit of Ashok Kumar, HPS, Deputy Superintendent of Police, dated 21.01.2020, in particular to para 1 and 5 thereof.

5. Heard the learned counsel on either side.

6. Notably, it is a case of murder of the nephew of the complainant in broad daylight. The petitioner was declared a proclaimed offender on 03.08.2013, after which he remained at large for five years and an FIR under Section 174A IPC also stood registered against him on 02.08.2018 at Police Station Punhana, District Nuh. It was only subsequently that he was arrested and granted the concession of bail on 25.09.2018.

7. It is apposite to refer to the statement of the complainant-Wahid recorded on 13.06.3013, appended as Annexure P-3, which falsifies the submissions made on behalf of the petitioner that he was not named as one of the assailants, who attacked the complainant and deceased. The relevant portion

whereof reads thus:

“Stated that on 20.8.2012 at about 9.30 AM I and my nephew Sakir went to perform the Namaz at iddgah of our village. After offering Namaz when we were returning to our house and reached near the house of Rashid, in the meanwhile Khalil son of Sheodan, Shokeen son of Ruzdar, Sabir son of Ruzdar, Sheodan son of Noor Mohammad, Akil son of Sheodan, Salauddin son of Samsuddin, Jamil son of Sheodan, Majid son of Usman, Aasu son of Chander, Ruzdar son of Jodu, Ali son of Jodu, Rashid son of Usman, Sakir son of Yasin, Khurshid son of Hurmat, Hoshier son of Hurmat, Mubarik son of Khurshid, Ayyub son of Jumma, Millu @ Missu son of Umra, Fajjar son of Jumma @ Beda, Rahis son of Umra, Aspak son of Ayyub, Munnaf son of Ruzdar armed with lathis, chantias and pharsas were already present there on both side of the road due to previous enmity. On seeing us Sheodan son of Noor Mohammad exhorted and asked his companions that we should not be spared as we have not give votes in the elections of Sarpanch in their favour.”

8. The paras as referred to by learned State counsel of the reply filed wherefrom the involvement of the petitioner is evident, read thus:

“1. That after lodging the FIR Police investigated the matter and during the course of the investigation the accused namely Sabir, Khurshid, Rahis, Ashfak, Ayub, Misru were arrested and during the course of investigation all the accused suffered disclosure statement vide which they admitted their involvement in commission of the said crime and they also disclosed the involvement of the petitioner in the commission of the said crime, hence on finding the sufficient evidence, the petitioner was also arrested and during the interrogation the petitioner also suffered disclosure statement vide which he also admitted his involvement in commission of the said crime.

XX

XX

XX

5. ... in the present case 7 accused were arrested and all of them suffered disclosure statement vide which they admitted their guilty and also disclosed the involvement of the petitioner, on which on finding the sufficient evidence the petitioner was arrested and on completion of the investigation challan was filed against the guilty persons, including the petitioner.”

9. Through the foregoing facts and circumstances, in particular that the petitioner, adopted elusive tactics by being an absconder for almost 5 years, was

arrested and released on bail on 25.09.2018; the trial being at the stage of recording of prosecution evidence; nothing has been brought out to demonstrate the evidence against him and the co-accused being indivisible or inseparable; even the judgment whereby the co-accused stated to have been acquitted, has not been placed on record, this Court finds the present petition to be devoid of merits.

10. Accordingly, the present petition is hereby dismissed.

11. The observations made hereinabove are only for the purpose of adjudication of the present petition and shall not be construed as an expression of opinion on the merits of the case.

(AMAN CHAUDHARY)  
JUDGE

August 29, 2023  
M.Kamra

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