

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

CRM-M-41458-2023
Decided on: 23.08.2023

Zorawar Singh

.... Petitioner

Vs.

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Rajiv Kataria, Advocate, and
Mr. Aman Joon, Advocate, for the petitioner.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 482 Cr.P.C. is to set aside the order dated 28.08.2018 (Annexure P2) passed by Ld. JMIC, Patiala in case FIR No.55 dated 01.03.2009 registered at Police Station Civil Line, Patiala under Sections 302, 457 & 120B IPC, whereby petitioner's application under Section 340 Cr.P.C. has been dismissed. Challenge is also given to the order dated 15.02.2021 (Annexure P3) passed by Ld. Additional Sessions Judge, Patiala, whereby the revision against the aforesaid order dated 28.08.2018 of Ld. JMIC, Patiala was dismissed.

2. (i) According to the petitioner, he was falsely implicated in the aforesaid FIR No.55 dated 01.03.2009. The local police was unable to solve the mystery of double murder and was trying to falsely implicate the petitioner. Petitioner was wrongly declared proclaimed offender in that case on 28.04.2014. Respondent No.2 moved an application under Section 83 Cr.P.C. alleging the petitioner to be owner of 25 bigha of land in village Bargani and also that he was holding an account in SBI Branch Palam

Extension, New Delhi in which there was an amount of more than ₹45 lakh. On that application, order dated 03.12.2014 was passed, seizing the account of the petitioner and attachment of the property.

(ii) Ld. counsel contends that the contents of the application were false because petitioner was neither holding the land mentioned in the application nor had any amount of ₹45 lakh in his account. Despite knowing the true facts, application with wrong facts was moved by respondent No.2. Later on, investigation in the FIR was transferred to CBI and the petitioner was found innocent. The order declaring him as PO was recalled on 31.03.2017. Thereafter, petitioner moved an application under Section 340 Cr.P.C. to launch prosecution against respondents No.2 & 3. Ld. counsel contends that his application has been dismissed by the trial Court vide impugned order dated 28.08.2018 and the revision against that order has been dismissed by Ld. ASJ Patiala on 15.02.2021, without giving any justifiable cause.

3. Perusal of the impugned order reveals that revision has been dismissed by Ld. ASJ after noticing that only appeal could have been filed under Section 341 Cr.P.C. against the order passed on the application under Section 340 Cr.P.C. and so, revision was not maintainable. Apart from this, it was further noticed that in case petitioner was not the owner of the property, which was sought to be attached, nor was holding any amount in the account which was seized, so petitioner was not prejudiced in any manner whatsoever. Ld. ASJ has also placed reliance upon ***Iqbal Singh Marwah and another Vs. Meenakshi Marwah 2008(1) Apex Court Judgment (SC) 568***, wherein it has been held by Hon'ble Supreme Court

that launching of the prosecution under Section 340 Cr.P.C. is not mandatory; and that complaint can be made by the Court after conducting preliminary enquiry, only if it deems it fit that it is expedient and in the interest of justice to initiate the complaint. The Court cannot become claimant in each and every case, unless the facts and circumstances demand so.

4. After going through the impugned orders passed by the Courts below, I do not find any illegality or perversity in the same so as to warrant any interference therein.

5. Finding no merit in the present petition, same is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

23.08.2023

Vivek

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

Yes/No
Yes/No