

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

240+234

1.

CRM-M-48239-2021

Date of decision: 07.07.2023

Didar Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

2.

CRM-42469-2022 in/and

CRR-2411-2022

Didar Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Vijay Lath, Advocate for the petitioners.

Mr. Amit Rana, Sr. DAG, Punjab.

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**MANJARI NEHRU KAUL, J. (ORAL)**

**CRM-42469-2022 in CRR-2411-2022**

For the reasons mentioned in the application, the same is allowed and delay of 30 days in filing the revision petition is condoned.

**Main Case**

1. This order shall dispose of the following two petitions as they both arise out of the same FIR and the facts involved therein are identical:-

(i) **CRM-M-48239-2021**, wherein a prayer has been made for quashing of FIR No.176 dated 17.11.2020 under Section 61 of the Punjab Excise Act, 1914 (for short, 'the Act') registered at Police Station Sri Anandpur Sahib, Tehsil Sri Anandpur Sahib, District Rupnagar along with all consequential proceedings arising therefrom.

(ii) **CRR-2411-2022**, wherein the petitioners have sought

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quashing of order dated 18.11.2021 passed by learned Sub Divisional Judicial Magisterial, Sri Anandpur Sahib in case No.CHI/292 of 2021 titled as 'State Vs. Inderjit Singh and others', whereby charges were framed against them under Section 61(1) of the Act.

2. Learned counsel for the petitioners *inter alia* contends that from a bare perusal of the contents of the FIR in question it is evident that the petitioners are innocent and have been falsely implicated in the case in hand. While drawing the attention of this Court to the provisions of Section 61 of the Act, learned counsel submits that as per the scheme of the Act, there must be some evidence to show that the recovered lahan was either prepared by the accused or was ever in his possession. However, in the instant case it was a matter of record that the place from where the alleged recovery of lahan was effected was neither owned nor possessed by the petitioners; the recovery had been effected from an open space which was accessible to one and all. Furthermore, the petitioners were not even found present when the police party arrived at the spot and effected the alleged recovery.

3. Still further, while drawing the attention of this Court to the reply filed by the learned State counsel it has been argued that the State had also conceded that the articles recovered from the spot were not directly linked to the petitioners. It has, therefore, been asserted that in the circumstances, *prima facie* no offence is made out against the petitioners. Therefore, the FIR in question and consequential proceedings arising therefrom including the impugned order vide which charges under Section 61 of the Act had been framed against the

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petitioners deserved to be quashed.

4. In support, learned counsel has placed reliance upon ***State of Haryana and others Vs. Ch. Bhajan Lal and others : 1991(1) RCR (Criminal) 383***, wherein it was held by the Hon'ble Supreme Court that if the allegations levelled in the FIR or the complaint, as the case may be, even if accepted in their entirety, did not prima face make out a case against the accused, and did not disclose the commission of any offence, the FIR in question deserved to be quashed.

5. Per contra, learned counsel appearing for the State while vehemently controverting the prayer and submissions made by the counsel opposite, has submitted that a conjoint reading of the FIR in question as well as the reply filed by the State, does prima facie disclose the commission of an offence under Section 61 of the Act. Learned State counsel has submitted that a secret information was received by the police about the involvement of both the petitioners in the manufacture and sale of illicit liquor (lahan) in some villages of Punjab, bordering the State of Himachal Pradesh. A specific information was also received that the petitioners who were habitual offenders, had concealed drums containing lahan, by burying them in the land towards the northern side of a gorge, in the area of village Gambhirpur. It was only thereafter pursuant to the receipt of the secret information, a ruqa was sent to the police station, and after completion of the requisite formalities, the raiding party arrived at the spot and effected recovery of 1400 litres of lahan. Learned State counsel has controverted the contentions of the learned counsel for the petitioners

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qua there being no cogent material on record to connect the petitioners with the alleged recovery. It has been asserted that there being no direct evidence to link the petitioners with the alleged recovery, as stated in the reply filed by the State was only qua the petitioners not being present at the place of recovery, when the police party reached the spot. Learned State counsel has argued that, the very fact a specific information had been received wherein the petitioners had been named and pursuant thereto the alleged recovery also effected, prima face lent corroboration to the authenticity of the secret information which had been received. He further submitted that it was during the Pandemic, the petitioners had been distilling and selling illicit liquor clandestinely and that was precisely the reason in view of the lockdown imposed, the petitioners were not found at the spot, however, when the petitioners were arrested, they got the place of recovery marked. It has also been submitted that prosecution evidence is underway. A prayer was, therefore, made for dismissal of the instant petitions as once a secret information had been received against the petitioners which led to the recovery of 1400 litres of lahan along with 02 empty iron drums, prima facie involvement of the petitioners in the crime in question was evident.

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

7. The FIR in the case in hand was lodged under Section 61 of the Act pursuant to a secret information wherein the petitioners were specifically named.

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8. As per the information received by the police, both the petitioners who were allegedly involved in distilling and selling illicit liquor (lahan) had concealed drums filled with lahan by burying them in the land, on the border of States of Himachal Pradesh and Punjab. Pursuant to the secret information, 06 iron drums and one plastic drum filled with lahan along with 02 empty iron drums were recovered from the spot. The contentions of the learned counsel for the petitioners that the evidence collected by the investigating agency was insufficient to connect the petitioners with the alleged recovery cannot be delved into by this Court while exercising its powers under Section 482 of the Cr.P.C. This Court cannot be expected to conduct a mini trial by appreciating evidence and adjudicating upon questions of fact as the same would be delved into by the Trial Court.

9. Still further, the learned Trial Court has already taken cognizance of the matter as charges stand framed against the petitioners. Therefore, it would not be proper to interfere at this stage to quash the FIR in question moreso when the allegations levelled prima facie disclose the commission of the offence alleged.

10. Accordingly, this Court does not find any merit in both the petitions, which stand dismissed accordingly.

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

07.07.2023

Vinay

(MANJARI NEHRU KAUL)  
JUDGE

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