

116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55416-2022

Date of decision: 09.01.2023

Dinesh Kumar

.....Petitioner

V/s

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Mohd. Salim, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

DEEPAK MANCHANDA J.

This petition has been filed under Section 482 of Cr.P.C. for issuance of direction to respondents No.1 to 3 to furnish fresh positive clearance report to the petitioner in case FIR No.74 dated 07.09.2007 under Sections 279, 337, 427 of IPC registered at Police Station Anandpur Sahib, District Rupnagar and to remove the name of the petitioner from Crime Register maintained by the Police based on judgment dated 03.10.2012 (Annexure P-1) passed by the Sessions Judge, Rupnagar wherein the petitioner has been released on probation for one year.

Learned counsel for the petitioner contends that the petitioner belongs to a poor family and passed the matriculation examination in the year 2005, whe applied for a Government job but could not get through due to the pendency of the aforesaid case as the authorities raised objections and instructed the petitioner to get clearance from the said offence and then apply for the Government job.

Learned counsel for the petitioner has placed reliance upon the judgment passed by the Hon'ble Supreme Court in a case titled **XXXX Vs. Kancherla Durga Parsad and others** Miscellaneous Application No.875 of 2022 in SLP (Crl.) No.3211 of 2022 decided on 18.07.2022

I have heard the learned counsel for the petitioner.

Learned counsel for the petitioner has placed reliance upon the aforementioned judgment and while going through the same, it has been found that it does not apply to the facts of the present case as the same was with regard to display of name of victim of modesty of women and Sexually Transmitted Disease (STD) where the Hon'ble Supreme Court issued directions to the Registry to examine the issue and to work out how the name of both the petitioners therein and respondent No. 1 along with address details can be masked so that they do not appear visible for any search engine. The said judgment was passed in context to deal with the modesty of women and the Sexually Transmitted Disease (STD) being the right to be forgotten and the right of eraser being the right of privacy in her relative and humanitarian context whereas the facts of the present case are altogether different. Moreover, the learned counsel for the petitioner has not placed any material on record to show under which Rule/Statutory Provisions or Act, the prayer of the petitioner can be accepted about the issuance of a positive clearance report as well as the removal of his name from the Crime Register maintained by the police based on the judgment dated 03.10.2012 (Annexure P-1) passed by Sessions Judge, Rupnagar.

Further more, the case of the present petitioner does not fall in the category of acquittal as he was convicted vide order dated 10.10.2011 under Section 279, 337 and 338 of IPC by the Judicial Magistrate First Class, Anandpur

Sahib against which he preferred an appeal before learned Sessions Judge, Rupnagar and the same was partly accepted wherein order of sentence qua offence under Section 338 of IPC was set aside to that extent only and Conviction and order of sentence for offence under Section 279 and 337 of IPC stood dismissed with modification that the petitioner be released on probation under Section 4(1) of Probation of Offender Act, subject to furnishing personal and surety bonds in the sum of Rs.20,000/- and on undertaking to keep peace and be a good behaviour for one year as well as on undertaking to appear and receive the sentence as and when so-called during said probation period of one year. The petitioner was also to pay Rs.10,000/-as compensation to the complainant. Resultantly, there can be no consideration to remove the name of the petitioner from the Crime Register maintained by the police and give him a positive clearance report as he stood convicted.

Keeping in view the conviction of the petitioner and the absence of material to support his prayer, the present petition is devoid of merits and is hereby dismissed.

09.01.2023
Manisha/Sapna

(DEEPAK MANCHANDA)
JUDGE

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