

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10485-2024 (O&M)
Reserved on: 11.03.2024
Pronounced on: 14.03.2024

Harjinder Singh
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Aditya Dassaur, Advocate
for the petitioner(s).

Mr. Kanav Bansal, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
49	7.12.1996	Vigilance Bureau, Jalandhar Range (Now at Amritsar)	409, 420, 467, 468 and 471 read with Section 120-B IPC and Sections 7/13(2) of the Prevention of Corruption Act, 1988.

1. The petitioner, who was arraigned as an accused in FIR captioned above for impersonating and obtaining loan of Rs.1,00,000/- on which he was also entitled to subsidy of Rs.15,000/- and he did not appear before the Court and evaded service and was declared as proclaimed offender vide order dated 15.12.1997 passed by Judicial Magistrate Ist Class, Amritsar, has come up before this Court under section 482 of Code of Criminal Procedure, 1973 (CrPC) seeking quashing of said order dated 15.12.1997 (Annexure P-3).
2. Petitioner’s counsel submits that the FIR in question was registered by Gurmail Singh DSP Vigilance Bureau Amritsar against six accused including the petitioner with the allegations that the petitioner in connivance with co-accused pasted his photograph on the loan file of one Manjit Singh, whose loan amount of Rs.1,00,000/- was passed by the Manager, District Industrial Officer, Amritsar, and obtained loan in his place by forging documents and impersonating him and also grabbed subsidy on the said laon. He has argued that the petitioner had obtained loan for his firm namely

Gurvir Industries in 1994 to the tune of Rs.1 lac and he had even repaid the same on 11.2.1995. However, despite the loan account having been fully satisfied and closed, he was involved in the present FIR, but he was never asked to join proceedings in the matter. Moreover, out of the six accused, three accused namely Shavinder Singh Chandok, Baldev Singh and Kuldeep Singh Khurana have already been acquitted by the trial Court and there is a specific finding of the trial Court to the effect that from the statements of witnesses, there is nothing on record to show that co-accused had ever changed the photograph of Manjit Singh and affixed the photograph of petitioner on the form. He has further submitted that it has been found by the trial Court that petitioner is none else but is known to the family of the complainant and he has got business links with Manjit Singh, complainant and Pritam father of the complainant and assertions of the prosecution that both these accused in connivance with accused Baldev Singh had changed the photograph of Manjit Singh on the form and thereafter, disbursed the loan but no evidence has been led by the prosecution on record, to connect the accused with the commission of crime. Petitioner's counsel has further submitted that the petitioner was not aware the present proceedings in the present FIR till date neither the present petitioner has received any summons from the court or the police and when the present petitioner came to know with regard to the present FIR, the present petitioner approached the Ld. Additional Sessions Judge, Amritsar and filed an application under Section 438 Cr.P.C. for granting pre-arrest bail on 02.01.2024 which was dismissed on 31.01.2024 and immediately thereafter, when the present petitioner came to know of these proceedings and PO order filed the present petition in this Hon'ble Court for quashing the PO order (Annexure P-3). He has further submitted that the petitioner is ready to face the trial before the Id. Trial court and prayed this Hon'ble Court to quash the PO order (Annexure P-3) which has been passed against the provisions of law under Section 82 and 83 Cr.P.C.

3. On the other hand, State has opposed the present petition. State's counsel has submitted that present FIR was registered against the petitioner and co-accused Sawinder Singh Chandok, Baldev Singh, Kuldeep Singh Khurana, Om Parkash, Mohinder Singh Numberdar on the basis of secret source information that the petitioner has fraudulently obtained a loan of rupees One lakh from the Punjab and Sind Bank, Branch office City Centre, Amritsar by impersonating as Manjit Singh and by forging sale deed and other documents in his favour relating to the Amarjot Industries in connivance and conspiracy with co-accused Kuldeep Singh Khurana, Manager and Sawinder Singh Chandok Loan officer, Baldev Singh and Mohinder Singh Numberdar and also misappropriated the subsidy amount obtained from the State Government. The petitioner is main beneficiary of the fraudulent activities committed by him in

connivance with other co-accused Kuldeep Singh Khurana, Branch Manager and Sawinder Singh Chandok Loan officer, Baldev Singh and Mohinder Singh Numberdar. The petitioner has fraudulently obtained a loan of Rs. one lakh from the Punjab and Sind Bank, Branch office City Centre, Amritsar by impersonating himself as Manjit Singh and by affixing his photograph on the loan documents in the name of Manjit Singh and also presenting forged sale deed and other documents in his favour relating to the Amarjot Industries to show his entitlement for the advancement of the loan being an entrepreneur, in connivance and conspiracy with co-accused Kuldeep Singh Khurana, Manager and Sawinder Singh Chandok Loan officer, Baldev Singh and Mohinder Singh Numberdar. Though he had returned the loan amount to the Punjab and Sind Bank but misappropriated the subsidy amount of Rs. 15,000/- against Rs. one lakh given by the State Government on the aforesaid loan amount.

4. State has also filed reply dated 6.3.2024 by way of affidavit of DySP concerned, which reads as under:-

“4. That the petitioner absconded to avoid his arrest during the course on investigation and could not be arrested despite repeated efforts made by the investigation officers by conducting raids at his house and other hideouts after obtaining non-bailable warrants of arrest from the court of learned Judicial Magistrate First Class, Amritsar. He was declared a proclaimed by the court of learned Judicial Magistrate First Class, Amritsar vide order dated 15.12.1997 (Annexure P-3) on account his failure to appear before him pursuant to the issuance of a proclamation under section 82 Cr.P.C against him.

5. That on the completion of the investigation, an Investigation Report/Challan under section 173 Cr.P.C. was submitted in the court of learned Judge, Special Court, Amritsar on 31.05.2004 against the co-accused Baldev Singh, Om Parkash and Mohinder Singh Numberdar. The co-accused Kuldeep Singh Khurana and Sawinder Singh Chandok were declared innocent during the investigation and were kept in the column No. 2 of the investigation report/challan. During the pendency of the trial co-accused Mohinder Singh, Numberdar died and proceedings against him were abated while co-accused Om Parkash was discharged by the learned trial court. The trial court summoned co-accused Kuldeep Singh Khurana and Sawinder Singh Chandok as additional accused under section 319 Cr.P.C to face trial.

6. That the learned Judge, Special Court, Amritsar acquitted the co-accused Baldev Singh, Kuldeep Singh Khurana and Sawinder Singh Chandok of the Charges framed against them with an observation that proceedings against the petitioner shall be revived as and when he surrenders in the court, or is arrested and produced by the Police in the court vide judgement dated 06.03.2013 (Annexure P-4).

7. That the respondent i.e., State of Punjab, has not preferred any appeal against the aforesaid judgment dated 06.03.2013 (Annexure P-4) before this Hon'ble court.”

5. I have heard counsel for the parties and gone through the record.

6. An analysis of the grounds taken in the petition, the reply filed by the State, rejoinder filed by the petitioner and the submissions made by the respective counsel would lead to the outcome that the main ground taken by the petitioner is of non-service of the petitioner. However, the same is not substantiated at all by any plausible or believable evidence whatsoever. The petitioner has not been able to point out any illegality in the impugned order as to how it violates the provisions of Section 82 and 83 CrPC. In fact, a perusal of impugned order dated 15.12.1997 clearly points out that the period of 30 days had expired from the date of proclamation and the case was called number of times and after that, the petitioner was declared as proclaimed offender. Thus, there are no reasons for quashing of impugned order.

7. However, considering the fact that the entire loan amount has been repaid by the petitioner and it is the subsidy amount of Rs.15,000/- which was not returned, as such, if the petitioner appears before the trial Court and undertakes to join proceedings, if any, the trial Court is requested to deal with the bail matter of the petitioner on priority.

Petition is dismissed with the abovesaid observation. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

March 14, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No