



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

**CRM-M-21037-2024
DECIDED ON: 06.05.2024**

JATINDER ADIYA @ MUNNI ADIYA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Shivoy Dhir, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 482 Cr.P.C. for quashing of FIR No.177, dated 19.06.2019 (Annexure P-1), under Section 336 IPC and Sections 25 & 27 of Arms Act, 1959, registered at Police Station Model Town, Hoshiarpur along with all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the family of the petitioner had organized a religious fare of Lakh Data at Dana Mandi, Hoshiarpur on 19.06.2019, wherein on 18.06.2019 when the fare was going on peacefully some notorious people gathered around armed with danda and swords and started threatening to end the said fare or else the whole family of the petitioner has to face the consequence these people even tried to enter the said fare and in order to save his family members from those goons, the

petitioner fired in the air from his licensed revolver with no *mala fide* intention but only to protect the ongoing fare.

3. He further contends that the instant FIR has been registered under Sections 25, 27, 54, 59 of Arms Act and Section 336 IPC whereas it is argued that the present incident does not attract Section 336 of IPC since the present Act was not executed to endanger life or personal safety of any person rather it was to save the life of his family members, who were armed with deadly weapons. In addition, it is pertinent to note that the instant FIR was registered in the year 2019 and till date no cognizance has been taken by the trial Court and the same deserves to be quashed under Section 468 Cr.P.C. being time barred.

4. On the other hand, a status report dated 29.04.2024 by way of an affidavit of Mr. Amar Nath PPS, Deputy Superintendent of Police, Sub Division City District Hoshiarpur has been filed on behalf of the respondent-State, which is taken on record, wherein it is stated that on 19.06.2019, ASI Jagdish Lal along with police party was present at Old Vegetable Market in connection with patrolling and checking of bad elements when a secret informer informed that on 18.06.2019 there was 27th Annual Fare of all Adiya families of Ghaian Mohalla at Market Committee, Khanpuri Gate and the petitioner was also present in the fare and fired in the air with his revolver thereby creating fear among the people present in the fare and as such offence under Section 336 IPC has been rightly invoked in the present FIR.

5. It is further submitted that during investigation, the investigating officer inspected the spot, wherein no shell of cartridges were found at the

spot, prepared the site plan of occurrence and recorded the statements of the witnesses.

6. Learned State counsel opposes the prayer for quashing of FIR while submitting that the petitioner has evaded the proceedings of the present case wherein during investigation it was found that the petitioner has sold his house at Luv Kush Nagar backside Chand Cinema Ludhiana about two years ago and is not being living at the given address in the petition since two years, therefore, the case is still under investigation.

7. Heard learned counsel for the respective parties at length.

8. Before going into the merits of the case, it is relevant to have a look at Section 468 Cr.P.C. which is reproduced hereinbelow:-

“468: Bar to taking cognizance after lapse of the period of limitation.-

(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in subsection

(2), after the expiry of the period of limitation.

(2) The period of limitation shall be:-

(a) Six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purpose of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.”

9. The case in hand pertains to an incident in the fare wherein the petitioner fired in the air from his licensed revolver and created fear in the mind of the people around him whereas on the other hand it is stated that the petitioner performed the same in order to save his family members from some bad elements who were threatening to disrupt the ongoing fare.
10. From the perusal of the status report, it is crystal clear that while investigation wherein the investigating officer inspected the spot, prepared a site plan of place of occurrence and recorded the statements of the witnesses and submitted that no shell of cartridges were found at the spot which makes it evidently clear that no offence can be made out under Section 336 of IPC and Sections 25 & 27 of Arms Act, 1959.
11. In the light of above stated facts, this Court is of the considered view that no offence under Section 336 of IPC and Sections 25 & 27 of Arms Act, 1959 can be culled out as no shell of cartridges were found at the spot of occurrence, thus the present petition deserves to be allowed.
12. Hence, FIR No.177, dated 19.06.2019 (Annexure P-1), under Section 336 IPC and Sections 25 & 27 of Arms Act, 1959, registered at Police Station Model Town, Hoshiarpur along with consequential proceedings arising therefrom, is hereby quashed qua the petitioner.

06.05.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No