



CRM-M-8950-2015

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8950-2015

Date of decision : 09.08.2024

VAKIL RAJ

... Petitioner

Versus

STATE OF HARYANA & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Anjali Sheoran, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 07.09.2014 (Annexure P-2) passed by the Superintendent, District Jail, Karnal punishing the petitioner for a jail offence, the order dated 10.09.2014 (Annexure P-8) passed by the District and Sessions Judge, Karnal granting judicial appraisal to the above said order and all subsequent proceedings arising therefrom.

2. The brief facts of the case are that on 07.09.2014, an occurrence took place within the premises of the District Jail, Karnal and on the holding of an inquiry, the Superintendent vide order of even date ordered the punishment of forfeiture of the relaxation of 10 days earned by the said prisoners under the provisions of Para 612 (4) of Punjab Jail Manual subject to verification by the Court of the District

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and Sessions Judge. The copy of the said order dated 07.09.2014 is attached as Annnexure P-2 to the petition.

3. A judicial appraisal of the said aforementioned order took place and vide order dated 10.09.2014, the District and Sessions Judge, Karnal found that the Superintendent, District Jail, Karnal had committed no illegality or infirmity in awarding punishment vide his order dated 07.09.2014. The relevant extract of the order dated 10.09.2014 is as under:-

I have gone through the material available on record. Since convict Vakil Raj is of quarrelsome nature and is in the habit of indulging unnecessary arguments and altercation with the inmates, I think that Superintendent, District Jail, Karnal has committed no illegality or infirmity in awarding the punishment, vide his order dated 07.09.2014. Accordingly, the punishment awarded to the aforesaid convict is judicially appraised and approved.

A copy of this order be sent to the Superintendent, District Jail, Karnal for information and necessary compliance.

4. The aforementioned orders are under challenge in the present petition.

5. The learned counsel for the petitioner contends that the statements of three witnesses namely, Imran, Rakesh and Suresh were recorded during the course of proceedings before the Jail Superintendent but the same were recorded in the absence of the petitioner/accused.



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Further, no opportunity for cross-examination of the said witnesses was given to the petitioner. Therefore, the order dated 07.09.2014 (Annexure P-2) and the judicial appraisal dated 10.09.2014 (Annexure P-8) were liable to be quashed. Reliance is placed on the judgments in the cases of *Joga Singh Versus State of Haryana, 1988(1) R.C.R. (Criminal) 145*, *Davinder Paul Singh Versus State of Punjab, 1991(1) R.C.R. (Criminal) 183*, *Nirbhai Singh & others Versus State of Punjab, 1988(1) R.C.R. (Criminal) 356*, *Hoshiar Singh Versus State of Haryana & others, CRM-M-19682-2001* and *Pardeep Kumar Versus Narcotic Control Bureau, Chandigarh, CRWP-665-2014*.

6. On the other hand, the learned State counsel contends that due process was followed by the Jail Superintendent while holding an inquiry and similarly, the District and Sessions Judge, Karnal committed no illegality in upholding the order of Superintendent Jail, Karnal. He, however, concedes that as per the record the statements of the witnesses were not recorded in the presence of the accused and nor was he permitted to cross-examine them.

7. I have heard the learned counsel for the parties.

8. A perusal of the judgments relied upon by the petitioner would show that the evidence must be recorded in the presence of the prisoner as the same is sought to be used against him. The witnesses are required to be examined by the Jail Superintendent himself and the delinquent should also be given an opportunity to cross-examine the

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witnesses. This would be the only recognized manner in which the Superintendent can determine any jail offence. Interestingly, the occurrence is dated 07.09.2000 and the order of the Jail Superintendent, Karnal is of the same date which only goes to substantiate the argument of the petitioner that the inquiry conducted was a farce with a view to punish him and not with an intent to find the truth.

9. In view of the aforementioned discussion, I find considerable merit in the present petition. Therefore, the order dated 07.09.2014 (Annexure P-2) passed by the Superintendent, District Jail, Karnal, the order dated 10.09.2014 (Annexure P-8) passed by the District and Sessions Judge, Karnal along with all subsequent proceedings arising therefrom stand quashed.

(JASJIT SINGH BEDI)
JUDGE

09.08.2024
JITESH

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