



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

CRM-M-26979-2023

Date of Decision: May 15, 2024

Raghbir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ashdeep Singh, Advocate for the petitioner.

Mr. Iqbalpreet Singh, AAG, Punjab.

DEEPAK GUPTA, J.(Oral)

By way of present petition filed under Section 482 Cr.P.C., petitioner prays to quash FIR No.0293 dated 31.10.2018, under Section 61 of the Excise Act, 1914 (Section 181 of the Motor Vehicles Act added later on), registered at Police Station City Kharar, District S.A.S. Nagar and the consequent proceedings arising thereto qua the petitioner.

2. On 26.07.2023, following order was passed by this Court:-

“Prayer in this petition is for quashing the FIR No.0293, dated 31.10.2018, registered at Police Station City Kharar, District SAS Nagar, under Section 61 of the Excise Act, 1914 (Section 181 of the Motor Vehicles Act added later on) and all the consequential proceedings qua the petitioner.

It is contended by learned counsel for the petitioner that liquor was recovered from the vehicle bearing registration No.HR-70-9062 on 31.10.2018 from the possession of one Spinder Singh. Learned counsel contends that though the petitioner is the registered owner of the said vehicle, but he had already sold the same to one Bahadur Singh vide an affidavit (Annexure P-2). Besides, much prior to the date of offence, petitioner had left India to Australia on 03.04.2018 and came back on 17.11.2018, as is evident from his passport (copy Annexure P-3).

Notice of motion.

Mr. R.S. Khaira, DAG, Punjab accepts notice on behalf of respondent-State. Copy of paper book be supplied to him during the course of day.

Let status report be filed on behalf of respondent-State on 27.09.2023.

In the meantime, further proceedings qua the petitioner shall remain stayed.”

3. Today, short reply by way of affidavit dated 15.05.2024 of Shri Karan Singh Sandhu, Deputy Superintendent of Police, Sub-Division Kharar-1, District SAS Nagar on behalf of respondent No.1-State has been filed, para Nos.4 and 5 of which are relevant, which read as under:-

“4. That brief facts of the present case are that on dated 31.10.2018, police party was on barricading and patrolling in connection with checking of suspicious persons at Captain Chowk, Khanpur, Tehsil Kharar, District SAS Nagar. During the barricading and checking police party apprehended one Black Color car bearing registration No. HR-70-9062 Make Hyundai Accent. On checking Sapinder Singh S/o Hardip Singh R/o Village Lakhnaur was found to be smuggling 8 cartons containing 96 Bottles of illicit liquor make Nena Premium Whisky were recovered and on each bottle, for sale in U.T. Chandigarh Rock and Storm Bottlers Private Limited Plot No. 214 Industrial Area Phase-1, Chandigarh, was written. Accused Sapinder Singh could not produce any license or permit in connection with the aforesaid recovery as such above noted FIR was registered against him.

5. That after the registration of above noted FIR, investigation was carried out and samples from the aforesaid recovery was sent for chemical examination and from the chemical examination 'Positive the Samples resemble whisky' were found. On further investigation offence U / s 181 of Motor Vehicles Act was added. Further the aforesaid vehicle was found registered in the name of Raghbir Singh S/o Gurdial Singh R/o Village Lakhnaur Tehsil Kharar District SAS Nagar. During the investigation it has been found that accused Raghbir Singh/petitioner in connivance with his co-accused

Sapinder Singh had given his above said Black Color car bearing registration No. HR-70-9062 Make Hyundai Accent to his co-accused Sapinder Singh for the purpose of smuggling as such Raghbir Singh/petitioner was nominated in the present FIR.”

4. It is evident from the abovesaid stand taken by respondent No.1-State that recovery of the liquor was effected from co-accused Sapinder Singh, who was travelling in a car bearing registration No.HR-70-9062 on the date of apprehension. Respondent No.1-State is not able to refute the contention of the petitioner to the effect that he, as registered owner of the aforesaid car, had already sold the same to Sapinder Singh by way of affidavit (Annexure P-2) and that much prior to the date of offence, petitioner had left India and had gone to Australia on 03.04.2018 and then came back to India on 17.11.2018, as is evident from the copy of his passport (copy Annexure P-3).

5. In view of the aforesaid facts and circumstances, the continuation of the proceedings against present petitioner will be misuse of the process of law. Simply because of the reason that petitioner happens to be the registered owner of the car in question from which the liquor was recovered, which the petitioner had already sold to co-accused – Sapinder Singh, his complicity in the crime cannot be established even *prima facie*.

6. Consequently, present petition is allowed. FIR No.0293 dated 31.10.2018, under Section 61 of the Excise Act, 1914 (Section 181 of the Motor Vehicles Act added later on), registered at Police Station City Kharar, District S.A.S. Nagar and the consequent proceedings arising thereto, are hereby quashed qua the petitioner only.

May 15, 2024

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(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No