

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRR-914-2018
Date of Decision- 06.11.2024

JASWINDER KAUR

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Manish Prabhakar, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J

1. This revision petition has been directed against the impugned order dated 24.01.2018, Annexure P-1, whereby the petitioner, alongwith others, has been charge-sheeted for the offence under Section 17 of the Unlawful Activities (Prevention) Act, 1967, by the learned Additional Sessions Judge, Amritsar, in the case arising out of FIR No.05 dated 10/8/2016 under Section 25, 54, 59 of Arms Act and Section 17, 18, 20 of Unlawful Activities (Prevention) Act, 1967, registered at Police Station SSOC Amritsar.

2. It is contended by the learned counsel for the petitioner that the impugned order has been passed in a mechanical manner and that prior sanction of Central Government and State Government is required for prosecution under Section 17 and 18 of the Unlawful Activities (Prevention)

Act, 1967,(hereinafter referred to as “Act”) however, no such approval been obtained at the time of filing of challan in the present case as such petitioner cannot be prosecuted for the offence under Section 17, 18 of the above Act.

3. It is also contended that according to Section 17 of the Act, there is a provision for punishment for raising funds for terrorist act and as per Section 18, there is provision for punishment for conspiracy, whoever conspires or attempts to commit or advocates, abets advices or the common of a terrorist act or any Act preparatory to the commission of a terrorist act whereas in the present case neither the petitioner has made any conspiracy, attempting to commit or abetted or advised or committed any terrorist act or did any at of preparatory to the common of an terrorist act. There is no evidence of conspiracy, attempt to commit conspiracy and abetment against the petitioner, however, the petitioner has been roped in, by the police in the present case on the basis of hear-say material. The petitioner has been arrested by the police from her home at about 1-2 PM on 17.04.2017 but has been shown to be arrested before Sadar Police Station Batala, as such, there is false implication of the petitioner and accordingly, framing of charge under Section 17 & 18 of the above Act against the petitioner is absolutely illegal, unjust and erroneous on the face of it as no offence under these sections is made out against the petitioner. The order dated 24.01.2018 is, thus, liable to be set aside qua the present petitioner.

4. On the other hand, learned counsel for the State has submitted that the FIR has been registered on the basis of secret information that Gurpal Singh @ Pala; Major Singh and Rashpal Singh are in contact of active terrorist of Khalistan Jindabad Force rising in Belgium named Jagdish

Singh @ Bhoora and Jasbir Singh @ Jassi and Kuldeep Singh Keepa of the same organization residing in England and on the directions of the aforesaid persons are trying to revive the terrorism in Punjab and are involving young generation in this move to revive the terrorism. It was also informed by the secret informer that Gural Singh @ Pala is moving on his motor cycle make Pulsar bearing registration No.PB-08CP-6971 in the area of Mehta Chowk and is going to meet someone on the turning point of Umranangal on the GT Road of Amritsar Jalandhar and to do planning for a major activity. On this secret information, the abovesaid Gural Singh @ Pala was arrested from the above place and recovery of a pistol 9mm from the belt of his pants, with engravement of Automatic Pistol, made in USA No.7707 on one side and Auto Pistol 9 MM 9 Round on the other side and magazine No.7707 on its lower side, was affected. On unloading the pistol, 6 live 9 MM cartridges were found loaded therein. Currency notes of Rs.3200/- were also recovered from the front pocket of his shirt. During investigation, the petitioner's involvement was disclosed in the revival of terrorism in the State of Punjab by the co-accused and was, therefore, arrested and charge-sheeted by the police in the present case.

5. Heard counsel for both sides and case file also perused.

6. It is seen from the case file that the petitioner has been charge-sheeted, alongwith seven others, by the police in the present case for the offence under Section 17 & 18 of the Unlawful Activities (Prevention) Act, 1967, and petitioner has been charged with the offence under Section 17 of the said Act, vide order at Annexure P1, which is under challenge on behalf of the petitioner in the present petition. Section 17 of the Act deals with

Punishment for raising funds for terrorist act and provides that “Whoever, in India or in a foreign country, directly or indirectly, raises or provides funds or collects funds, whether from a legitimate or illegitimate source, from any person or persons or attempts to provide to, or raises or collects funds for any person or persons, knowing that such funds are likely to be used, in full or in part by such person or persons or by a terrorist organisation or by a terrorist gang or by an individual terrorist to commit a terrorist act, notwithstanding whether such funds were actually used or not for commission of such act, shall be punishable.....” During investigation, it has come on record that the petitioner is the mother of terrorism activist Shaminder Singh @ Sherry Sandhu, who at present is in Germany. Moreover, after arrest of the petitioner, one pistol 32 bore with 2 magazines and 20 live cartridges 32 bore and one country made pistol 12 bore were recovered from her possession, which she had kept concealed in her house and at the time of her arrest, she was going to throw the said ammunition away in the canal. Moreover, the name of the petitioner as active participant of the terrorist activities was disclosed by co-accused Jagdish Singh Bhoora, Jasbir Singh Jassi and Kuldip Singh Keepa in their disclosure statements. However, the petitioner has failed to show anything contrary to the investigation carried out by the police.

7. The Hon’ble Apex Court in ***“Sanjaysinh Ramrao Chavan v. Dattatray Galabrao Phalke as reported in (2015) 3 Supreme Court Cases 123”***, observed:

“14. ...Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or

there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with decision in exercise of their revisional jurisdiction.”

8. Consequently, the present petition fails for being devoid of merit and, accordingly, is hereby ordered to be dismissed as such.

06.11.2024
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(SANDEEP MOUDGIL)
JUDGE

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