

[202] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33156-2019
Date of Decision : 15.02.2024

Dara Singh ...Petitioner
versus
State of Punjab and anotherRespondents

Coram : **HON’BLE MR. JUSTICE DEEPAK GUPTA**
Present : Ms. Neetu Singh Aashat, Advocate for the petitioner.
Mr. Sahil R. Bakshi, DAG, Punjab.

DEEPAK GUPTA, J. (ORAL)

[1] On 20.01.2024, the following order was passed by this
Court:-

“ Present: Ms. Neetu Singh Aashat, Advocate for the petitioner.
Mr. Karunesh Kaushal, AAG, Punjab.

As 17.01.2024 was declared holiday, the case has been
taken up today as per the direction of the authorities.

Fresh power of attorney on behalf of petitioner has been
filed.

On 07.04.2022, following order was passed:

“ The present petition has been filed under
Section 482 of the Code of Criminal Procedure seeking
quashing of the FIR No.184 dated 07.04.2003, under Sections
341, 323, 506 and 34 IPC, registered at Police Station
Shimlapuri, Ludhiana, District Ludhiana.

The FIR was registered in the year 2003 and
thereafter purportedly challan was presented before the Court
but thereafter the entire record had gone missing. The learned
Sessions Judge, Ludhiana has also sent a report by saying that
inquiry was conducted by the learned Magistrate who has also
opined that there are material contradictions between the

statement made by different persons and different police officials. The information regarding the missing of the file was also sent to the High Court.

The learned counsel for the petitioner has submitted that there are 3 accused in the present case including the petitioner. The other coaccused namely, Sukha Singh and his wife have already died and the alleged incident was of the year 2003 and till date neither the trial has started nor there is any record available and, therefore, the present FIR and the consequential proceedings are liable to be quashed.

Notice of motion.

Mr. Davinder Bir Singh, learned Deputy Advocate General, Punjab accepts notice on behalf of State of Punjab.

Adjourned to 06.07.2022.

The further proceedings against the petitioner shall remain stayed.”

Reply on behalf of respondent- State has already been filed, as per which departmental enquiry was conducted against the IO and the Naib Court by the Trial Court for dereliction in performing their duties.

Let a report be called from the Sessions Judge, Ludhiana as to whether the lost file has been re-constructed so far or not and if not so far, what is the stage.

Adjourned to 15.02.2024. ”

[2] Pursuant to the aforesaid order, a report vide letter No.582/G dated 13.02.2024 has been received from learned District & Sessions Judge, Ludhiana, which reads as under:-

“ Subject: CRM-M-33156 of 2019 titled as 'Dara Singh Vs. State of Punjab and Anr.', fixed for 15.02.2024.

Sir,

Kindly refer to the Hon'ble High Court order dated 20.01.2024 passed in subject cited case.

2. *I have the honour to submit that Sh.Manzra Dutta, the then Judicial Magistrate Ist Class, Ludhiana vide letter No.64 dated 25.03.2022*

had reported that Challan in FIR No.184 of 2003, P.S. Shimlapuri, had been lost. The Officer had further reported that there were material contradictions in the statements of police officials and they were dodging their responsibilities and their role in loss of Challan in question could not be ruled out.

3. *Accordingly, vide this office letter No.1168/G dated 29.03.2022, loss of the record was reported to the Hon'ble High Court and vide Endst. No.1169/G of even date, Ms.Manzra Dutta, the then Judicial Magistrate Ist Class, Ludhiana was asked to reconstruct the lost record. Simultaneously, the Commissioner of Police, Ludhiana, was asked to fix responsibility and to take appropriate action against the delinquent police official(s) for loss of the same who, in turn, reported that departmental inquiry against HC Gurpal Singh, No. 193/Ludhiana and HC Mukhtiar Singh, No.774/Ludhiana had been initiated for loss of the record in question.*

4. *Subsequently, Dr.Rajwinder Kaur-II, Judicial Magistrate Ist Class, Ludhiana (being successor Court) vide letter No.59 dated 18.10.2022 read with letter No.117 dated 01.06.2023 reported that with the best efforts, only copy of FIR and ROD Register could be reconstructed and reconstruction of the remaining lost record was not possible as the requisite record i.e. challan of FIR No. 184 had not been submitted nor any copy of the same was available with P.S. Shimlapuri, DA Office, Ludhiana and office of Commissioner of Police, Ludhiana. The Officer further reported that there would not be any impact on the case if the requisite Challan was not reconstructed as the Challan was never submitted before the Court and accordingly, fresh Challan could be submitted at present stage by the Investigating Agency for further proceedings.*

4. *It is submitted that quarterly statement for loss of judicial record for quarter ending June, 2023 was reported to Hon'ble High Court and considering Report of the Officer, Hon'ble High Court had directed to drop proceedings with regard to reconstruction in the case, vide letter No.21948 Rules/XX.C.1/2R dated 15.09.2023. The copies of relevant documents are enclosed herewith for kind perusal of the Hon'ble High Court. ”*

[3]

In view of the aforesaid report, when it is evident that

re-construction of the file is not possible and this Court on administrative side has already directed to drop the proceedings regarding re-construction, it would be quite unjustifiable to keep the sword hanging on the head of the petitioner.

[4] Taking into consideration all the facts and circumstances, FIR No.184 dated 07.04.2003 registered under Sections 341, 323, 506, 34 IPC at Police Station Shimlapuri, Ludhiana, District Ludhiana and all subsequent proceedings arising therefrom, are hereby quashed.

(DEEPAK GUPTA)
JUDGE

15.02.2024
'Rajneesh'

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