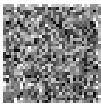


2024.PHHC:155321



IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

CRR-35-2020
Date of Decision- 07.08.2024

GURDIT SINGH @ NITTA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.P.S. Tung, Advocate
for the petitioner.

Mr. Rajiv Verma,DAG, Punjab.

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under section 401 Cr.P.C for setting aside the impugned order dated 26.11.2019 wherein charges have been framed in an arbitrary manner and the charge-sheet dated 26.11.2019, passed by the learned Judge, Special Court, Barnala.
2. For brevity, facts of the case unfolds that, on 21.06.2019 at about 6.30 PM at Amar Cycle stand Barnala, with Vicky Singh and Kaka Singh on Scooty bearing registration no. PB-19R-5211 were found in conscious possession of 32 strips of Clovidol 100 SR each containing 10 tablets total 320 tablets with batch no. TVD-19085 containing Tramadol Hydrochloride as salt and 208 strips of Clovidol 100 SR each containing 10 tablets total 2080 tablets with batch no. PTB-053 containing Tramadol Hydrochloride as salt and co-accused Sarbo Kaur on Scooty bearing no. PB-07AL-5649 was found in

conscious possession of 20 strips of Clovidol 100 SR each containing 10 tablets total 200 tablets with batch no.TVD-19083 containing Tramadol Hydrochloride as salt and 13 strips of Clovidol 100 SR each containing 10 tablets total 130 tablets with batch no. 19026 containing Tramadol Hydrochloride as salt wherein charges were framed for committing offence u/s 22 of the NDPS Act.

Further, on the same date, time, place co-accused Gurdit Singh allowed the other co-accused persons to use his cycle stand premises for the commission of offence under NDPS Act thereby attracting section 25 of the NDPS Act and thereafter FIR No. 230 dated 21.06.2019 under sections 22/25/29/61/85 NDPS Act stands registered at Police Station Barnala.

3. After completion of investigation and presentation of challan, the learned trial Court has framed the charges against all the four accused namely Kaka Singh son of Dev Singh; Vicky Singh son of Maghar Singh; Sarbo Kaur d/o Charna Singh and Gurdit Singh @ Nitta son of Amar Singh, vide order and charge-sheet dated 26.11.2019, for the commission of offence under section 22/25/29 of NDPS Act.

4. Counsel for the revisionist contends that the trial court has erred in framing charges against him since he is only a cycle stand owner at Barnala bus stand and has nothing to do with the commissioning of offence of other co-accused since their scooties were parked in his parking for cycle stand and being the parking owner he had no right to check the diggies of the vehicle concerned.

5. He further contends that the revisionist had helped the police in locating the vehicle and removing the vehicle from the stand. But the police has falsely implicated him merely on suspicion.

6. Per contra, learned State counsel has filed short reply by way of affidavit of Deputy Superintendent of Police (SD) Barnala, District Barnala, which is taken on record wherein it is contended that the police had visited the Cycle Stand of the revisionist after receiving a secret information and relying on the secret information, raid was conducted and recovery of intoxicant tablets was effected, therefore, the order framing charge, and the charge-sheet, dated 26.11.2019 passed by the learned Judge, Special Court, Barnala, are prima facie in accordance with the prosecution version and the petition in hand deserves dismissal.

7. Heard learned counsel for the respective parties and gone through the record.

8. On going through the order sought to be impugned in this petition, this Court is able to read that :

“During the course of investigation, accused Gurdit Singh was arrested and during interrogation he disclosed that the above named accused had parked their above said vehicles in his cycle stand and he was apprised that intoxicant tablets are lying therein and they would sell the same and that they would share the profit of the same with him.”

9. At this stage it would apposite to discuss the revisional jurisdiction of the High court where it is a settled proposition of law that the object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the plethora of judgments on this proposition, it emerges that the

revisional jurisdiction can only be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. However, these are not exhaustive classes, but are merely indicative wherein each case would have to be determined on its own merits.

10. Reliance can be placed upon the observations made by the Apex Court in “***Amit Kapoor vs. Ramesh Chander and Another, (2012) 9 SCC 460***”, explaining the scope of revisional jurisdiction. It was held that:-

“13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even framing of charge is a much advanced stage in the proceedings under the CrPC.”

11. In this situation, keeping in view the facts of the case as well as the settled proposition of law discussed in Amit Kapoor’s case(supra), the involvement and participation of the revisionist stands proven on record at this stage, however, he may prove his innocence during the trial.

Hence, as far as the question of setting aside the impugned order of framing charges dated 26.11.2019 and the charge-sheet dated 26.11.2019 is

concerned, this Court finds no ground to interfere with the order of charge, and the charge-sheet.

12. Consequently, the present petition fails and is ordered to be dismissed.

07.08.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No