(2007) 05 P&H CK 0197

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 34080-M of 2003

Raghubir Singh and Others		APPELLANT
	Vs	
State of Punjab and Another		RESPONDENT

Date of Decision: May 12, 2007

Acts Referred:

- Arms Act, 1959 - Section 25, 27
- Criminal Procedure Code, 1973 (CrPC) - Section 364, 482
- Penal Code, 1860 (IPC) - Section 148, 149, 307

Citation: (2007) 05 P&H CK 0197

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: Ranjan Lakhanpal, for the Appellant; Rajni Gupta, for the Respondent Nos. 1 and 2, DAG, Punjab and Ms. Anju Arora, for the Respondent

Final Decision: Dismissed

Judgement

L.N. Mittal, J.
Raghubir Singh, Rajbir Singh and Vinod Kumar have filed the instant petition u/s 482 of the Code of Criminal Procedure for quashing of FIR No. 157 dated 16.07.2003 (Annexure P-6), under Sections 364/148/149 IPC and Sections 25/27 of the Arms Act, registered at Police Station Lambi, District Muktsar, by Bhim Sein Respondent No. 2.

2. According to the FIR, Petitioner No. 2, who was then posted as Station House Officer of Police Station Sadar Dabwali, District Sirsa, Haryana, along with Petitioners No. 1 and 3 and many other persons abducted Mangat Ram, Sandeep and Soma from outside the house of Balkar Singh - Ex-Sarpanch in the area of Village Killian Wali, District Muktsar (Punjab) because Mangat Ram was an eye-witness in the case of murder ofone Baldev Singh and at the instance of accused persons of the said case, Mangat Ram was

abducted along with Sandeep and Soma so as to prevent Mangat Ram to appear as eye-witness in the said murder case.

3. Learned Counsel for the Petitioners emphatically argued that Petitioner No. 2, in execution of Warrant issued by learned Additional Sessions Judge, Sirsa, against Mangat Ram in a case u/s 307 IPC and Section 25 of the Arms Act, arrested Mangat Ram from outside the house of Ex-Sarpanch Balkar Singh in the area of Village Killian Wali. Reference in this regard has been made to Arrest Warrant (Annexure P-1), Daily Diary Reports (Annexures P-2, P-3 and P-4) and Search Memo (Annexure P-5).

4. The aforesaid argument explains that Mangat Ram was arrested in pursuance of Arrest Warrant issued against him by the competent court. However, there is no explanation as to why Sandeep and Soma were also picked up. Learned Counsel for the Petitioners, on being specifically questioned in this behalf, conceded that there is no specific averment in the instant petition that Sandeep and Soma were not picked up, as alleged in the impugned FIR, although there is an averment in the instant petition that the impugned FIR is false. Even during the course of arguments, there is no answer to the query as to how the FIR regarding alleged abduction of Sandeep and Soma can be quashed even if the Petitioners'' version regarding arrest of Mangat Ram is accepted. The argument that Sandeep and Soma were not picked up by Petitioner No. 2 is not based on any averment in the instant petition and is not substantiated by any material on record. Moreover, this would raise a disputed question of fact, which cannot be adjudicated upon in the instant petition u/s 482 of the Code of Criminal Procedure. The question, whether Sandeep and Soma were abducted by the Petitioners and others or not, can only by decided by the trial court after recording evidence.

5. In view of the aforesaid, it is manifest that the impugned FIR cannot be quashed. The instant petition is accordingly dismissed.