

ITEM NO.28

COURT NO.9

SECTION IIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl)... 2008
CRL M P . N O(s). 1 5 3 6 4

(From the judgement and order dated 22/04/2008 in CRL M No. 35002/2007 of
The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF PUNJAB

Petitioner(s)

VER SUS

SIMRANJITSINGHMANN
(With Crl.M P No. 15364/08 c/delay in filing SL P)

Respondent(s)

Date: 29/09/2008 This Petition was called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE ALTAMASKABIR
HON'BLE MR. JUSTICE MARKANDEYKATJU

For Petitioner(s) Mr. Kuldip Singh,Adv.
Mr. R. K. Pandey,adv.
Mr. T. P. Mishra,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
ORDER

Delay condoned.
The Special Leave Petition is dismissed.

(Ganga Thakur)
P. S. to Registrar

(Juginder Kaur)
Court Master

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

- 1. The Court of Sh. _____ Addl Sessions Judge
- 2. The C.J.M./Duty Magistrate, _____
- 3. The Court of Eilaqa Magistrate, P.S. Div No. 4, Jalandhar
- 4. The S.S.P. Jalandhar
- 5. The S.H.O. P.S. Div No. 4, Jalandhar
- 6. The State of Punjab/Haryana through its Director/Inspector General Prison Punjab/Haryana at sec-14, Panchkula. Sec-17, Chandigarh.
- 7. The Superintendent Central District Jail, _____
- 8. The District Magistrate, _____
- 9. The Home Secy., to Govt. Punjab/Haryana/U.T. Chandigarh.

Subject:- Criminal Misc. No. 35008-M of 199 /2007 in
 Criminal Revision/Appeal No. _____ of 199 /200

Simranjit Singh Mann
Petitioner(s)

Versus

The State of Punjab/Haryana/U.T. Chandigarh.
Respondent(s)

F.I.R. No. 185 Dated 18.5.07 P.S. Div No. 4, Jalandhar
 Under Section(s) 124-A IPC

Sir,

I am directed to forward herewith a copy of this Court's order dated 22.4.08 Passed in the above noted case by Hon'ble Mr. Justice Wood K. Sharma at preliminary/final hearing for information and necessary action.

This is in continuation of this Court's letter/docket No. _____ Dated _____ A copy of main petition dated _____ with Annexure is sent herewith for reference.

Yours faithfully,

Superintendent (Criminal)
 for Assistant Registrar (Crl.)

Endst. No. _____ Dated _____

(1) Copy with copy of order dated 22.4.08 forwarded to the Sessions Judge Jalandhar For further necessary action. This is in continuation of this Court's Endst. No: _____ Dated _____

NO. OF ORDER SHEET:- SIX

Superintendent (Criminal)
 For Assistant Registrar (Crl.)

Ajit Singh
25/4

IN THE HON'BLE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH

CRIM MISC NO. 35002-M / 2007

For Private Use
Examiner Judicial Department
High Court of Punjab & Haryana
Authorized under Section 78

Simranjit Singh Mann s/o Sh. Joginder Singh
Mann r/o Dulla S. Harnam Singh vill. Talania.
Distt. Paternagar Sahib. (Now confined in Central Jail Ludhiana)
...Petitioner

Versus

State of Punjab

...Respondent

Petition Under Section 482 of
Cr.P.C. for quashing of FIR No.185,
dated 18.5.2007, Police Station
Division No.4, Jalandhar Under
Section 124-A IPC.

RESPECTFULLY SHOWETH

1. That the petitioner is a respectable and peace loving citizen with no previous criminal record.
2. That the petitioner is a former M.P. and was elected twice to Lok Sabha. He is also a former IPS Officer and is at present President of SAD (Amt).
3. That a statue of Beant Singh former Chief Minister Punjab was installed at Jalandhar. The petitioner and his party members protested against it in a peaceful manner. Proceedings were initiated against the petitioner and other party members u/s 107/ 151 Cr.P.C. and was sent to judicial lock up at Ludhiana. Later on the petitioner and

IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

Crl. Misc.No. 35002-M of 2007
Date of decision : 22-04-2008.

Simranjit Singh Mann

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE VINOD K.SHARMA

PRESENT: Mr. Ranjan Lakhanpal, Advocate, for the petitioner.
Mr. K.S. Pannu, AAG Punjab.

VINOD K.SHARMA, J: (ORAL)

The petitioner seeks quashing of FIR No. 185 dated 18-05-2007 registered under Section 124-A of the Indian Penal Code at Police Station Division No.4, Jalandhar.

The only ground on which the petitioner seeks quashing of the present FIR and subsequent proceedings is that even if the allegations levelled in the FIR are taken on their face value, no offence under Section 124-A, IPC is made out against the petitioner and thus the proceedings are nothing, but misuse of the process of the Court.

The FIR against the petitioner reads as under:-

No. C/16788, dated 15.5.07 received from SP-HQ Jalandhar the contents of the same are: From The Senior Supdt. of Police Jalandhar, To The Deputy commissioner, Jalandhar Sub: DDIR in respect of arrest of Sh. Simranjit Singh Mann Memo: Kindly

Criminal Misc. No. 35002-M of 2007

and enclosed with DDR bearing no.24 dated 14.5.2007 time 3-10 pm regarding arrest of Simranjit Singh Mann and others in connection with Breach of peace this is for your kind information and necessary action. Please Sd/- Sr. Supdt. Of Police Jalandhar. It is requested that produced on which sent to judicial custody upto 21.5.2007, in relation to which ASI Harjinder Singh No. 582/OR, HC Harmesh Lal 1414 Traffic staff, ASI Kewal Kishore 143/ OR recorded statements of them. Upon investigation it is found that simranjit Singh Mann along with other companions on 14.5.2007 gathered at BMC Chowk and raised slogans of anti nation khalistan Zindabad, instigated common people and Dilawar Singh human bomb who assassinated Sh. Beant Singh. photographed frames of his put in his neck and has done a wrong act, upon which common people and congress workers can be instigated."

The contention of Mr. Ranjan Lakhanpal, learned counsel appearing on behalf of the petitioner is that the only allegation against the petitioner is that the petitioner Simranjit Singh Mann along with other companions on 14th of May 2007 had gathered at BMC Chowk, Jalandhar and raised slogans of anti-nation Khalistan Zindabad.

It is also the allegation against the petitioner that he was carrying a photograph of Dilawar Singh human bomb, who assassinated Shri Beant Singh.

The contention of the learned counsel for the petitioner is

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Criminal Misc. No. 35002-M of 2007

that mere casual raising of some slogans, a couple of times by accused person without creation of public disorder, does not constitute any threat to Government of India nor does it give a feeling of enmity of hatred amongst different communities or religions or other groups to attract provisions of Section 124-A, IPC.

In support of this contention, learned counsel for the petitioner, has placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Balwant Singh and another Vs. State of Punjab**, AIR 1995 SC 1785, wherein the Hon'ble Supreme Court was pleased to lay down as under:-

" 8. Section 124A IPC reads thus:

124A. Sedition – Whoever by words, either spoken or written, or by signs or by visible representation, or otherwise brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law in India, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1 –The expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation 2 – Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not

Criminal Misc. No. 35002-M of 2007
constitute an offence under this section.

Explanation 3- Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this Section.

A plain reading of the above Section would show that its application would be attracted only when the accused brings or attempts to bring into hatred or contempt or excites or disaffection towards the Government established by law in India, by words either written or spoken or visible signs or representations et. Thus where some slogans were raised, a couple of times by two accused persons and there was no evidence showing that the accused persons were leading a procession or were otherwise raising the slogans with the intention to incite people to create disorder and no disturbance, whatsoever, was caused by the raising of the slogans and the people, in general, were unaffected and carried on with their normal activities, it cannot be said to be aimed at exciting or attempt to excite hatred or disaffection towards the Government as established by law in India. Hence Section 124-A, I.P.C. would not be attracted to the facts and circumstances of the case."

Learned counsel for the petitioner also placed reliance on the judgment of the Hon'ble Supreme Court in the case of Kedar Nath Singh Vs. State of Bihar, AIR 1962 S.C. 955, wherein the Hon'ble

Criminal Misc. No. 35002-M of 2007

Supreme court was pleased to interpret provisions of Sections 124-A and Section 505 IPC as under:-

“The provisions of the sections read as a whole along with the explanations, make it reasonably clear that the sections aim at rendering penal only such activities as would be intended, or have tendency to create disorder or disturbance of public peace by resort to violence. As already pointed out, the explanations appended to the main body of the section make it clear that criticism of public measures or comment on Government action, however, strongly worded, would be within reasonable limits and would be consistent with the fundamental right of freedom of speech and expression. It is only when the words written or spoken etc. which have the pernicious tendency or intention of creating public disorder or disturbance of law and order that the law steps in to prevent such activities in the interest of public order. So construed, the section, in our opinion, strikes the correct balance between individual fundamental rights and the interest of public order.”

The petitioner also placed reliance on the judgment of this Court in the case of **Lt. Col. Partap Singh (Retd.) Vs. Union Territory, Chandigarh – Criminal Misc. No.11926-M of 1991 decided on 18-12-1992**, wherein this Court was pleased to quash the FIR registered under Sections 124-A and 153-A of the Indian Penal Code and under Section 4 (2) of the Terrorist and Disruptive Activities (Prevention) Act, where

Criminal Misc. No. 35002-M of 2007

similar allegations of raising of slogans were levelled against petitioner.

Mr. K.S. Pannu, learned counsel for the petitioner, however, controverted the contentions of the learned counsel for the petitioner by raising a plea that the prosecution evidence is going on and the material has been collected by the prosecution to connect the petitioner with the crime.

On a consideration of the matter, I find force in the contentions raised by the learned counsel for the petitioner.

In the present case, if the allegations in the FIR are taken on their face value, no charge under Section 124-A, IPC can be framed or tried in view of the authoritative pronouncements of the Hon'ble Supreme Court in the cases of Balwant Singh and another and Kedar Nath Singh (supra). Therefore, the continuation of proceedings would be nothing but misuse of the process of the Court.

Consequently, this petition is allowed. The FIR and the subsequent proceeding arising therefrom are ordered to be quashed.

sd/-vinod K.Sharma
Judge

April 22, 2008
dls'

certified to be true Copy
Examiner
Judicial Department
High Court of Punjab & Haryana
Chandigarh

25/4/08

Handwritten notes and signatures at the bottom left of the page, including "CP 25/4" and "25/4".

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