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

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2026:PHHC:111451

CRM-M-43429-2018 (O&M)
Date of decision : 18.08.2026

Gurmit Singh **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Swati Verma, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

MANISHA BATRA, J. *(Oral)*

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of order dated 12.03.2018 (Annexure P-4) passed by the learned Additional Sessions Judge, Ludhiana in CRM No.230 of 2018, titled ***State v. Gurtej Singh***, arising out of judgment dated 24.01.2018 (Annexure P-1) passed by the learned Special Court, Ludhiana, whereby proceedings under Section 58 of the Narcotic Drugs and Psychotropic Substances Act, 1985 *(for short 'NDPS Act')* were initiated against the petitioner, and also for quashing all the consequential proceedings arising therefrom.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that an FIR bearing No.302 dated 31.10.2013 under Section 15 of the NDPS Act was registered at Police Station Focal Point, Ludhiana. The FIR

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related to recovery of poppy husk from a Canter. Initially, the investigation was conducted by Inspector Gurtej Singh, the then SHO of the police station. After his transfer on 27.02.2014, the petitioner joined as SHO, Police Station Focal Point, Ludhiana. The petitioner conducted further investigation, prepared the challan after obtaining the opinion of the District Attorney and presented the same before the learned Court on 22.05.2014. On the same day, he was transferred from Police Station Focal Point to Police Lines, Ludhiana.

3. The learned Special Court, Ludhiana, vide judgment dated 24.01.2018, acquitted the accused Dil Nawaz Ahmed. While doing so, the learned Trial Court issued notice to the petitioner, who was then SHO, as well as the earlier SHO Inspector Gurtej Singh, to show cause as to why they be not punished for an offence punishable under Section 58 of the NDPS Act.

4. The petitioner pleaded that, pursuant to the observations made by the learned Trial Court, a departmental enquiry was conducted against him. The Enquiry Officer, vide report dated 05.06.2018, found that the allegations of dereliction of duty were not proved against the petitioner. The said report was thereafter accepted by the competent authority vide order dated 04.07.2018.

5. The State, in its reply, stated that although the petitioner had mentioned in the challan that proceedings had been initiated to get Shah Nawaz Ahmed and Babbal @ Azhar declared proclaimed offenders and that a supplementary challan would be presented after their arrest, no such further proceedings or supplementary challan were thereafter presented by the petitioner. The learned Trial Court also noticed that there was no evidence against Dil Nawaz Ahmed and that he had been arrested and detained unnecessarily. On these considerations, the learned Trial Court issued the show-

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cause notice under Section 58 of the NDPS Act.

6. During the pendency of the present petition, the State was directed to clarify the position regarding the proclamation proceedings. In its additional affidavit, the State has placed on record the order dated 20.03.2014 passed by the learned Chief Judicial Magistrate, Ludhiana, declaring Bablu and Sehnawaj Ahmad as proclaimed offenders. The affidavit states that the said order was received in the police station on 14.05.2014. It is further stated that both proclaimed offenders have not yet been arrested and a report under Section 173 Cr.P.C. has subsequently been submitted against them on 21.10.2024, which is stated to be pending before the learned Additional Sessions Judge, Ludhiana. The order dated 20.03.2014 itself records that, after the proclamation period expired, both accused were declared proclaimed offenders and a copy of the order was forwarded to the SHO, Police Station Focal Point, Ludhiana, for information and necessary action.

7. It is argued by learned counsel for the petitioner submits that the impugned order dated 12.03.2018 is not sustainable in the eyes of law as the petitioner has been proceeded against under Section 58 of the NDPS Act despite the fact that he had neither conducted the search nor seizure nor arrested any person in the case. It is submitted that the petitioner had joined as SHO only after the earlier Investigating Officer had been transferred and had thereafter conducted the investigation on the basis of the material already available on record. Learned counsel further submits that the petitioner had prepared the challan after obtaining the opinion of the District Attorney and presented the same before the learned Court. The petitioner was transferred on the very date on which the challan was presented and, therefore, could not conduct any further

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investigation in the matter. It is argued that the departmental enquiry conducted against the petitioner also concluded that the allegations of dereliction of duty were not proved. It is further argued that Section 58 of the NDPS Act deals with vexatious entry, search, seizure or arrest, whereas there is no allegation that the petitioner had himself carried out any such act. The petitioner had only subsequently taken over the investigation and had performed his duties in accordance with the material available on the police file.

8. Learned counsel for the petitioner has relied upon the subsequent departmental enquiry and the report dated 05.06.2018, accepted vide order dated 04.07.2018, to submit that the competent police authorities themselves found that the petitioner was not guilty of dereliction of duty. It is, thus, argued that continuation of the criminal proceedings against the petitioner, despite these circumstances, would amount to abuse of the process of law. Hence, it is urged that the petition deserves to be allowed and the impugned order is liable to be set aside.

9. *Per contra*, learned State counsel, on the strength of reply and affidavit, which are on record, has argued that the learned Trial Court had rightly issued the show-cause notice to the petitioner under Section 58 of the NDPS Act. It is submitted that the petitioner, while submitting the challan, specifically recorded that proceedings had been initiated to get Shah Nawaz Ahmed and Babbal @ Azhar declared proclaimed offenders and that a supplementary challan would be filed after their arrest. However, no further proceedings were initiated by the petitioner and no supplementary challan was presented thereafter. Learned State counsel further submits that the learned Trial Court, while acquitting Dil Nawaz Ahmed, had recorded findings regarding his

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arrest and detention and had consequently directed that action be taken against the petitioner as well as the earlier SHO. It is argued that the petitioner cannot seek quashing of the proceedings at the threshold merely on the basis of the departmental enquiry, as the findings in the departmental enquiry are not binding upon the criminal proceedings. Learned State counsel further submits that the petitioner would have full opportunity to put forward his defence before the learned Trial Court at the appropriate stage and that the present petition is therefore liable to be dismissed. It is also submitted that, pursuant to the subsequent directions of this Court, the State has now placed on record the order dated 20.03.2014 whereby two accused, namely Bablu and Sehnawaj Ahmad, were declared proclaimed offenders. The said order was received in the police station on 14.05.2014 and has now been placed on record along with the additional affidavit. Learned State counsel, therefore, submits that no ground is made out for interference in exercise of the inherent jurisdiction of this Court and prays for dismissal of the petition.

10. This Court has heard the rival submissions.

11. Before proceedings further, it would be appropriate to have a look on the provision of Section 58 of the NDPS Act, which read as follows:

> "**58. Punishment for vexatious entry, search, seizure or arrest.—**
> (1)Any person empowered under section 42 or section 43 or section 44 who—
> (a)without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, conveyance or place;
> (b)vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any narcotic drug or psychotropic substance or other article liable

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> to be confiscated under this Act, or of seizing any document or other article liable to be seized under section 42, section 43 or section 44; or
>
> (c)vexatiously and unnecessarily detains, searches or arrests any person, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.
>
> (2)Any person wilfully and maliciously giving false information and so causing an arrest or a search being made under this Act shall be punishable with imprisonment for a term which may extend to two years or with fine or with both."

12. The primary allegation against the petitioner is that, while posted as SHO, Police Station Focal Point, Ludhiana, he failed to take the proceedings to their logical conclusion against accused Shah Nawaz Ahmed and Babbal @ Azhoor and thereafter presented the challan against Dil Nawaz Ahmed, who was ultimately acquitted by the learned Trial Court. However, a perusal of the record shows that the petitioner was not the officer who had arrested Dil Nawaz Ahmed. The said accused was arrested on 14.11.2013 by Inspector Gurtej Singh, the then Investigating Officer, whereas the petitioner took over as SHO only on 27.02.2014. The learned Trial Court itself recorded that there was no evidence connecting Dil Nawaz Ahmed with the recovery and that his arrest had been made by Inspector Gurtej Singh without any basis, merely on account of his being the brother of Shah Nawaz Ahmed. Thus, the very act of arrest and detention which weighed with the learned Trial Court while observing that an offence under Section 58 of the NDPS Act was made out, was not committed by the present petitioner.

13. As regards the subsequent investigation, the petitioner had taken

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over the matter only after the transfer of the earlier Investigating Officer. He prepared the challan after obtaining the opinion of the District Attorney and presented the same before the learned Court on 22.05.2014. Significantly, on the very same day, he was transferred from Police Station Focal Point, Ludhiana to Police Lines, Ludhiana and, consequently, ceased to have control over the investigation. The departmental enquiry conducted into the very allegations also recorded these facts and concluded that the allegations against the petitioner were not proved. It is also material that the learned Trial Court had proceeded on the basis that there was no material to show that Shah Nawaz Ahmed and Babbal @ Azhoor had been declared proclaimed offenders. During the pendency of the present petition, however, the State has itself placed on record the order dated 20.03.2014 whereby the said accused were declared proclaimed offenders. The said order was received at the police station on 14.05.2014, i.e. shortly before the petitioner was transferred on 22.05.2014. Thus, the factual premise on which the learned Trial Court had drawn an adverse inference against the petitioner also stands materially diluted by the subsequent material placed on record.

14. This Court is conscious of the fact that a departmental enquiry is not determinative of criminal liability. Nevertheless, in the peculiar facts of the present case, there is no material to indicate that the petitioner himself vexatiously or unnecessarily detained, searched or arrested Dil Nawaz Ahmed, so as to attract the ingredients of Section 58(1)(c) of the NDPS Act. At the highest, the material may give rise to an allegation of some lapse in further investigation, but such lapse, in the absence of the essential ingredients of the statutory offence, cannot justify continuation of proceedings under Section 58 of

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the NDPS Act against the petitioner.

15. In view of the aforesaid facts and circumstances, continuation of the proceedings against the petitioner would not advance the ends of justice. Accordingly, the present petition is allowed. The order dated 12.03.2018 (Annexure P-4) passed by the learned Additional Sessions Judge, Ludhiana, as also the consequential proceedings arising therefrom qua the petitioner, are hereby quashed.

18.08.2026 **(MANISHA BATRA)**
Waseem R. Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

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