

Varinder Singh Vs. State of Punjab and Another

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Court : Punjab and Haryana

Decided On : Jul-19-2013

Appellant : Varinder Singh

Respondent : State of Punjab and Another

Judgement :

Crl.Misc.not M- 13296 of 2011 (O&M) 1 In the High Court of Punjab and Haryana at Chandigarh Crl.Misc.not M- 13296 of 2011 (O&M) Date of decision:

19. 7.2013 Varinder SinghPetitioner Versus State of Punjab and anotherRespondents CORAM: HON'BLE MRS.JUSTICE SABINA Present: Ms.R.K.Thind, Advocate, for the petitioner.

Ms.Harsimrat Rai, DAG, Punjab.

**** SABINA, J.

This petition has been filed by the petitioner under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.201 dated 24.9.2009 under Sections 42/ 45 (12) of the Prisons Act, 1894 (the Act for short) and Section 540 of the Indian Penal Code, 1860 registered at Police Station Ferozepur (Annexure P-1) and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that carrying of a mobile phone in jail was not an offence as it did not fall within the definition of prohibited articles.

Learned State counsel, on the other hand, has submitted that as per Section 42 of the Act, whoever, contrary to such rule Devi Anita communicates with any prisoner is liable to be punished.

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Chandigarh Crl.Misc.not M- 13296 of 2011 (O&M) 2 In the present case, petitioner had gone as a visitor in the jail.

As per the prosecution case when the petitioner was searched, a mobile phone was recovered from his turban and the charger was recovered from his jutti (shoe).Section 42 of the Act reads as under:- Penalty for introduction removal of prohibited articles into or from prison and communication with prisoner: .- Whoever, contrary to any rule under section [59].introduces or removes or attempts by any means whatever to introduce or remove into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article.

and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison.

and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner, and whoever abets any offence made punishable by this section, shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Crl.Misc.not M- 13296 of 2011 (O&M) 3 Thus, as per the above provision, whoever, communicates or attempts to communicate with any prisoner is liable for punishment.

In the present case, petitioner was entering the jail premises with a mobile phone and its charger which he had hidden in his turban and shoe.

The said articles were apparently being carried to enable communication with a prisoner.

After presentation of challan, charges have already been framed against the petitioner.

In these circumstances, at this stage, no ground for quashing of the FIR in question is made out.

Petitioner would be at liberty to take up all the pleas available to him during trial.

Accordingly, this petition is dismissed.

(SABINA) JUDGE July 19, 2013 anita

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