

An honest and fair investigation is prerequisite for a fair trial

The High Court of Punjab and Haryana has observed that a citizen's life must not be ruined pertaining to the false implication of criminal offense and adulterated investigation by the authorities involved. This observation was made by a single judge bench consisting of Hon'ble Mr. Justice Rajan Gupta, where the petition was filed under Section 482 of Cr.P.C. to allot an independent investigation agency to probe into an FIR dated 27.11.2014 Registered under section 22/61/85 of NDPS act. Section 482, Cr. P.C. explicitly acknowledges the High Court's inherent power and right to pass orders to secure the ends of justice.

Facts

The petitioner contended that Alla Bux and Hussain deceived him into joining them to Abohar in the instant case. Soon the vehicle was inspected by the police at the Rajpura border. In the apprehension, police lay hold of 500 tablets of carcinoma and 95 vials of Rexcof. Petitioner further stated that Alla Bux and Husain were allowed to go scot-free as they bribed the police with rupees 2,40,000/- and petitioner was charged with possession of drugs.

During the pendency of the case petitioner's father requested an inquiry, which S.P. of Abohar supervised. According to the Investigation, the petitioner was declared innocent, and the request was made to release the accused by applying section 169 of the Cr. P.C., which talks about the release of the accused when evidence is not sufficient, or there is no reason for him to continue to remain in custody. The special Court rejected his inquiry and the investigation agency pressed charges against him

Judgment

The Court opined that they would not interfere with the facts of the case; however, they acknowledge the probability of faults with the investigation. The Court stated that "Right for a citizen under Article 21 of the Constitution cannot be trampled by a shoddy, improper or biased investigation". The Court asked CBI to do a fresh correct investigation into the matter.

Analysis

In the case of **Nirmal Singh Kehlon vs. State of Punjab**, the Supreme Court opined that "An accused is entitled to a fair investigation. Fair Investigation and fair trial are concomitant to the preservation of the fundamental right of an accused under Article 21 of the Constitution of India. But the State has a larger obligation, i.e., to maintain law and order, public order, and preservation of peace and harmony in the society. A victim of a crime, thus, is equally entitled to a fair investigation." A fair investigation forms the backbone of a legal system. Investigation is a complex process with a large number of people involved and steps it forms the part of "due process" in legal jargon. Honesty, competence, correct procedure, and avoidance of any form of unfair means constitute a fair investigation. A shady and misconducted investigation most definitely leads to an unfair trial and leads to the gross miscarriage of justice. A fair trial is *sine qua non* of Article 21 of the Constitution. Justice must seem to be done. If the criminal trial is not free from bias, the Judicial system would be at stake, shaking public confidence and disrupting the Rule of Law. Courts are now more sanitized towards the issue of unfair investigation and are adequately acting to weed out any flaw in the process of administration of justice.

This Article Does Not Intend To Hurt The Sentiments Of Any Individual Community, Sect, Or Religion Etcetera. This Article Is Based Purely On The Authors Personal Views And Opinions In The Exercise Of The Fundamental Right Guaranteed Under Article 19(1)(A) And Other Related Laws Being Force In India, For The Time Being. Further, despite all efforts that have been made to ensure the accuracy and correctness of the information published, Legal Xpress shall not be responsible for any errors caused due to human error or otherwise.