

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-30907 of 2014

.....

Date of decision:2.2.2015

Surender Kumar

...Petitioner

v.

Yogesh Kumar and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Deepak Choudhary, Advocate for the petitioner.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 482 Cr.P.C. praying for quashing the impugned order dated 9.7.2014 (Annexure-P.2) passed by learned Additional Sessions Judge, Fatehabad and modifying the order dated 13.6.2013 (sic. - dated 16.7.2013) (Annexure-P.1) passed by learned Chief Judicial Magistrate, Fatehabad, by virtue of which the learned trial Court has not summoned the accused/respondents in criminal complaint No.RBT-272-I of 2010/2012 for the offences under Sections 195, 196, 200, 219, 467, 468 and 471 IPC and Prevention of Corruption Act and has only summoned the accused/respondents for the offence under Section 167 IPC to face the trial.

I have heard learned counsel for the petitioner and have gone through the record.

The summoning order has been passed by the trial Court on the face of averments made in the complaint as well as on the basis of preliminary evidence. The trial Court summoned the accused for the offence under Section 167 IPC. The accused are three doctors and Sub Inspector Police Station, Ratia and there is allegation that the doctors have given the wrong report etc.

A perusal of the impugned order also shows that no sanction under Section 197 Cr.P.C. has been obtained before filing the complaint against the doctors. Otherwise also, I find that the learned Chief Judicial Magistrate, Fatehabad on the basis of preliminary evidence has summoned the accused for the offence under Section 167 IPC and yet evidence for the purpose of the charge is to be led by the complainant. The Court is to frame the charges on the basis of evidence produced by the complainant for the purpose of charge. If any other charge will be made before the Court, the trial Court will consider that aspect. The complainant has already filed the criminal revision petition and the learned Additional Sessions Judge, Fatehabad, has dismissed the revision petition and this petition under Section 482 Cr.P.C. amounts to filing of second revision petition in the guise of petition under Section 482 Cr.P.C. and as per Section 397(3) Cr.P.C., second revision petition is not maintainable.

Therefore, from the above discussion, I find that the orders passed by the Courts below, in no way, amount to miscarriage of justice or

[3]

abuse of the process of the law.

Hence, finding, no merit in the criminal miscellaneous petition, the same is dismissed.

February 2, 2015.

(Inderjit Singh)
Judge

hsp