

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Misc. No.M-40578 of 2015
Date of Decision : 1.12.2015

Mohinder Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. S.P.S. Sidhu, Advocate for the petitioner.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Instant petition is directed against the order dated 16.9.2014 (Annexure P-2) passed by the learned J.M.I.C. Moga, whereby respondents no.2 to 5 were summoned to face the criminal trial and respondents no.6 and 7 namely; Joginder Singh and Harvinder Singh were not summoned. Petitioner also challenges the revisional order dated 7.7.2015 passed by the learned Additional Sessions Judge, Moga, dismissing the revision of the petitioner-complainant against the above said order dated 16.9.2014.

Learned counsel for the petitioner submits that the impugned order passed by the learned trial court is self contradictory because the observations made in para 6 at page 25 of the paper book do not go hand in hand with the observations made in para 7 of the impugned order. He further submits that since the parties were known to each other, respondents were liable to be

summoned under the provisions of SC/ST Act, as well. Since the learned courts below have failed to appreciate the factual as well as legal aspect of the matter, while passing their respective impugned orders, the same are liable to be set aside. He prays for allowing the present petition.

Having heard learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this court is of the considered opinion that keeping in view the totality of facts and circumstances of the case, instant one has not been found to be a fit case warranting interference at the hands of this court, while exercising its inherent jurisdiction under Section 482 Cr.P.C., for the following more than one reasons.

A bare combined reading of the impugned order passed by both the learned courts below would show that each and every relevant aspect of the matter has been examined, considered and appreciated in the correct perspective before arriving at their respective judicious conclusions. Mere presence of respondents no.6 and 7 at the place of alleged occurrence would not make them liable to face the criminal trial. It is a matter of record that there was no direct attribution alleged against any of respondents no.6 and 7 and the learned courts below have rightly refused to summon them to face criminal trial. Having said that, this court feels no hesitation to conclude that the learned courts below committed no error of law, while passing their impugned orders and the same deserve to be upheld.

Coming to the argument raised by learned counsel for the petitioner regarding non summoning of the respondents to face criminal trial for the offence allegedly committed under SC/ST Act, it would suffice to note that the story put forth by the petitioner-complainant was on the face of it an

exaggerated one. The learned trial court as well as the learned revisional court have recorded well convincing and cogent reasons, while not summoning the respondents to face the offence under SC/ST Act. Once there was no specific attribution against respondents no.6 and 7, the learned courts below were well justified in not summoning them to face criminal trial. Further, the learned trial court as well as the learned revisional court have discussed the factual as well as legal aspect of the matter, including the medical evidence before passing their respective impugned orders. The learned courts below have not been found to have committed any factual or legal error in passing their respective impugned orders and the same deserve to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any jurisdictional error or patent illegality in either of the impugned orders passed by the learned courts below, so as to convince this court to invoke its inherent jurisdiction under Section 482 Cr.P.C. Petitioner failed to make out a case for summoning against respondents no.2 to 7 under the SC/ST Act. Similarly, since there was no role attributed against respondents no.6 and 7 for the offences under the IPC, the learned courts below were well within their jurisdiction not to summon these respondents to face the criminal trial. Under these circumstances, it can be safely concluded that the impugned orders passed by the learned courts below do not suffer from any illegality and the same deserve to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this court is of the considered view that the present petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

However, it is made clear that the observations made herein above will not affect the trial against other accused, who have been summoned to face the criminal trial.

Resultantly, with the above said observations made, present petition stands dismissed, with no order as to costs.

1.12.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE