

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-43585-2014 (O&M)

Date of decision : 06.01.2015

Rajinder Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rakesh Nagpal, Advocate for the petitioner.

JITENDRA CHAUHAN, J.

The present petition under Section 482 of the Code of Criminal Procedure, (for short, 'the Cr.P.C.') is for quashing of FIR No.191 dated 29.03.2007, registered under Sections 408, 409, 420, 467, 468, 471, 120-B of the Indian Penal Code (for short, 'the IPC'), at Police Station Sadar, Fetehabad, and all consequential proceedings arising therefrom, including report under Section 173 Cr.P.c. (Annexure P-2) and charge-sheet dated 20.11.2010 (Annexure P-3).

The learned counsel for the petitioner refers to Sections 212 and 219 Cr.P.C. to contend that the charges have wrongly been framed for the offences allegedly committed during the period 1994 to 2006. He cites Deep Chand Vs. State of Haryana, 1993(3) R.C.R. (Criminal)

293, wherein it has been held that single charge sheet in respect of cases of misappropriation spreading over four years is contrary to mandatory provisions of Section 212(2) Cr.P.C.

Heard.

In *Sumedh Singh Saini Vs. Davinder Pal Singh Bhullar etc. 2011(6) Recent Apex Judgments 303*, the Hon'ble Apex Court has held that the power under Section 482 Criminal Procedure Code cannot be resorted to if there is a specific provision in the Criminal Procedure Code for the redressal of the grievance of the aggrieved party or where alternative remedy is available. Section 397 Cr.P.C., Chapter XXX, provides as under:-

“397. Calling for records to exercise powers of revision.

(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order,- recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record. Explanation.- All Magistrates whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.

(2) The powers of revision conferred by sub- section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.”

The impugned order of framing of charges was passed on 20.11.2010. The petitioner did not file any revision against the impugned order framing the charge. The present petition under Section 482 Cr.P.C. has been filed after a lapse of more than four years from the date of passing of the order impugned mainly assailing the charge. The prosecution is leading evidence in the case. At this belated stage, this Court will not exercise its powers under Section 482 Cr.P.C. for quashing of framing the charge. The trial Court has power to amend the charge at any stage and to correct the error under Section 216 Cr.P.C., if any.

In this view of the matter, the petitioner having approached this Court without availing the alternative remedy, the present petition is hereby dismissed, without commenting upon the merits of the case. However, the petitioner is at liberty to take up all the pleas at the stage of trial.

06.01.2015
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(JITENDRA CHAUHAN)
JUDGE