

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

Criminal Revision No. 2548 of 2015

Date of decision:- August 04, 2015

Gurmit Singh and another

.....Petitioners...

Vs.

State of Punjab and another

....Respondents...

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Mehtab Singh Khaira, Advocate,
for the petitioners.

Ms. Priyanka Sadar, AAG, Punjab,
for respondent No.1-State.

Mr. Deepak Sabharwal, Advocate
for respondent No.2.

JASPAL SINGH, J.

Challenge in this revision petition is to order dated May 16, 2015 whereby petitioners have been charge-sheeted to face trial under Sections 366, 376 read with Section 120-B of the Indian Penal Code, in case FIR No. 18, dated 11.04.2014, Police Station Bholath, District Kapurthala.

2. Undisputably, petitioners have filed CRM-M- 32513 of 2014, decided on September 19, 2014 with the expectation that trial Court shall consider all the pleas/contentions of petitioners before forming any opinion regarding framing of charges.

3. The main grouse ventilated by petitioners through instant

petition is that while passing order dated December 16, 2014 whereby an application moved by petitioners seeking discharge and at the time of passing impugned order dated May 16, 2015, pleas were not considered by Id. Trial court. It was simply observed at the time of framing charges that Court has not to see whether the case will go for acquittal or for conviction and even on the mere suspicion, charge can be framed.

4. A glance at the impugned order dated May 16, 2015 as well as order dated December 16, 2014, whereby application for discharge moved by petitioners was dismissed, reveals that no plea, which was taken in the aforesaid criminal petition, has been taken into consideration by Id. Trial court. Though, observation made in case “***State of Maharashtra Etc. vs. Som Nath Thapa Etc.***”, ***AIR 1744, 1996 SCC (4) 659*** has been referred to but there is nothing in the order to suggest as what were the pleas/contentions raised by learned counsel for petitioners before the trial court and how the same has been met with. Even there is nothing in the concluding paragraphs of order dated December 16, 2014 that application moved by petitioners for their discharge has been accepted or declined.

5. No doubt, it is well settled that at the time of framing of charges, Court is not required to pass a detailed order but when a direction has been issued by this Court to consider all the pleas/contentions raised by petitioners in the criminal petition, Id. Magistrate was supposed to deal with the same and to pass an elaborate and reasoned order.

6. Without expressing any opinion on the merits but keeping in view the aforesaid aspect of the case, order dated December 16, 2014 and order dated May 16, 2015 are set aside by way of acceptance of instant revision petition and matter is remitted back to trial court with a direction to pass a fresh order after affording an opportunity of hearing to the parties.

7. Parties through their counsel are directed to appear before Id. trial court on September 02, 2015.

8. Petition stands disposed of accordingly.

August 04, 2015
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(JASPAL SINGH)
JUDGE