

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

**CRR No. 702 of 2015 (O&M)
Date of Decision: 05.11.2015**

Sukhi Ram

--Petitioner.

Vs.

State of Haryana

--Respondent.

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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

Mr. Kapil Aggarwal, Additional A.G. Haryana.

Mr. Akashdeep Singh, Advocate
for the complainant.

RAMESHWAR SINGH MALIK J. (ORAL)

CRM-36128 of 2015

Applicant seeks permission to place on record copy of order dated 23.12.2014 passed by the learned Additional Sessions Judge, Jhajjar as Annexure P-5 and also seeks exemption from filing typed copy thereof.

Application is allowed, as prayed for.

CRM stands disposed of.

CRR No. 702 of 2015

Feeling aggrieved against the impugned order dated 23.12.2014, whereby learned trial court ordered framing of charge against the petitioner and also the charge sheet of even date, i.e.

23.12.2014, petitioner has approached this Court by way of present criminal revision petition for setting aside the impugned order as well as charge sheet.

Notice of motion was issued.

Learned counsel for the petitioner places reliance on the final report under Section 173 (2) Cr.P.C. (Annexure P-1), presented before the learned court of competent jurisdiction by the investigating agency, to contend, that, at the most, charge under Section 30 of the Arms Act could have been framed against the petitioner. He further submits that once there was not even an allegation against the petitioner qua the alleged offences under Section 27 of the Arms Act and Section 201 of the Indian Penal Code ('IPC' for short), there was no scope for framing of charge for these offences against the petitioner. He concluded by submitting that since the learned trial court has exceeded its jurisdiction in this regard, the impugned order as well as charge sheet have resulted in serious miscarriage of justice and the same are not sustainable in law. He prays for allowing the present petition.

Faced with the above, learned counsel for the State as well as learned counsel for the complainant submit that since there was no allegation against the petitioner qua offences under Section 27 of the Arms Act as well as Section 201 IPC, it seems that learned trial court has inadvertently framed charges qua these offences, while passing the impugned order.

In view of the above said uncontroverted fact situation available on record, the impugned order as well as charge sheet

cannot be sustained and is liable to be set aside. Since there was not even an allegation against the petitioner for the commission of offences under Section 201 IPC and Section 27 of the Arms Act, this Court is of the considered opinion that learned trial court has exceeded its jurisdiction while framing charges qua these sections. Thus, the impugned order as well as charge sheet cannot be sustained qua these offences.

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 impugned order as well as charge sheet are liable to be set aside qua offences under Section 201 IPC and Section 27 of the Arms Act and the same are hereby ordered to be set aside, however qua the petitioner only.

So far as alleged offence under Section 30 of the Arms Act is concerned, learned trial court shall be at liberty to proceed further, in accordance with law, for framing charge against the petitioner under Section 30 of the Arms Act, if it is found feasible.

Resultantly, with the abovesaid observations made and directions issued, present criminal revision petition stands allowed, however, with no orders as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

05.11.2015
AK Sharma