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

CRM-M-10607 of 2016

Date of decision: November 29, 2016

Joginder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. G.S. Dhillon, Advocate for the petitioner.

Mr. Shilesh Gupta, Addl. AG Punjab.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

This is a petition for transfer/clubbing of two criminal cases, namely in FIR No.41 dated 09.04.2015, under Sections 420, 465, 467, 468, 471 and 120-B of Indian Penal Code, 1860 (for short 'IPC'), Section 12 of Passport Act, 1967 (for short 'Act') and Section 7/13(2) of Prevention of Corruption Act, 1988 (for short 'P.C. Act'), registered at Police Station City Shaheed Bhagat Singh Nagar and in FIR No.115 dated 11.08.2015, under Sections 419, 420, 467, 468, 471 and 120-B of IPC, registered at Police Station Jamalpur, Ludhiana, for being tried by one Court.

FIR No.115 dated 11.08.2015 as stated above and the challan therein obviously is triable by the learned Magistrate while FIR No.41 as stated above is triable by Special Court in view of the challan filed under the aforesaid provisions.

Learned counsel for the petitioner submits that the petitioner is accused in both the above said FIRs and the petitioner gives consent for the trial to be held by one Court in relation to the said two FIRs in order that there is no conflict of findings or judgment. He has referred the Section 186(a) of Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') and submits that by the consent of the petitioner, the criminal case in FIR No.115 dated 11.08.2015 be transferred to the Special Court for holding both the trials by the said one Court.

In my opinion, the Special Court, Shaheed Bhagat Singh Nagar being the Court higher in hierarchy, apart from the consent given by the petitioner or other request made by the petitioner, the Special Court at Shaheed Bhagat Singh Nagar trying criminal case in FIR No.41 dated 09.04.2015 should be the appropriate Court for holding both the trials.

Petition is thus, disposed of ordering that the criminal case arising out of FIR No.115 dated 11.08.2015, under Sections 419, 420, 467, 468, 471 and 120-B of IPC, registered at Police Station Jamalpur, Ludhiana stands transferred to the Special Court, Shaheed Bhagat Singh Nagar in the light of the above observations. Both the criminal cases in FIR No.41 dated 09.04.2015, under Sections 420, 465, 467, 468, 471 and 120-B of IPC, Section 12 of the Act and Section 7/13(2) of P.C. Act, registered at Police Station City Shaheed Bhagat Singh Nagar and another FIR No.115 dated 11.08.2015, under Sections 419, 420, 467, 468, 471 and 120-B of IPC, registered at Police Station

Jamalpur, Ludhiana, shall be tried by the Special Court, Shaheed Bhagat Singh Nagar. However, the issue about consolidation of two cases for the purposes of hearing, evidence and disposal, is concerned, the same is left for determination by the Special Court, Shaheed Bhagat Singh Nagar itself as the issue required application of mind for the facts, nature of evidence oral as well as documentary which could be received. Parties are at liberty to apply for the said purpose.

In case, the other concerned feel aggrieved by this order, liberty is reserved in their favour for alteration/recall/modification of this order.

(A.B. CHAUDHARI)
JUDGE

November 29, 2016

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No