

In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Misc. No.M-13705 of 2014

.....

Date of decision:16.2.2016

Dev Sharan

.....Petitioner

v.

Dr. Sarah Aggarwal and another

.....Respondents

....

(2) Criminal Misc. No.M-13717 of 2014

.....

Dev Sharan

.....Petitioner

v.

Dr. C.R. Khatri and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Madan Gupta, Advocate for the petitioners.

Mr. Ashit Malik, Advocate for respondent No.1 in Cr. Misc.
No.M-13705 of 2014.

Mr. Sagar Aggarwal, Advocate for respondent No.1 in both
petitions.

Mr. Brijesh Sharma, Assistant Advocate General, Haryana
for respondent No.2-State.

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Inderjit Singh, J.

This order will dispose of the above mentioned two criminal
miscellaneous petitions filed under Section 482 Cr.P.C. for quashing of
orders dated 1.10.2013 (Annexure-P2) passed by learned Additional

Sessions Judge, Kurukshetra in Criminal Revision No.252 of 2013 and Criminal Revision No.251 of 2013, whereby impugned order dated 26.10.2012 framing charge-sheet against the accused-revisionists for the offence under Section 304-A IPC has been set aside. It has further been prayed to set aside the consequential orders dated 10.10.2013 (Annexure-P.3) passed by learned Judicial Magistrate Ist Class, Kurukshetra in criminal case No.781 of 2012 filed by State against Dr. C.R. Khatri and Dr. Sarah Aggarwal in FIR No.198 dated 9.10.2006 registered for the offence under Section 304-A IPC at Police Station, Kurukshetra University, Kurukshetra, whereby the private respondents have been discharged, as the same arise out of the same FIR and the private respondents filed separate revision petitions. These petitions have been filed separately by the petitioner as the order of framing of charge has been passed in one FIR.

Notice of motion was issued in these cases.

Mr. Ashit Malik, learned Advocate has appeared for respondent No.1 in Cr. Misc. No.M-13705 of 2014, Mr. Sagar Aggarwal, learned Advocate has appeared for respondent No.1 in Cr. Misc. No.M-13717 of 2014 and Mr. Brijesh Sharma, learned Assistant Advocate General, Haryana has put in appearance on behalf of the respondent-State and contested these petitions.

I have heard learned counsel for the parties as well as learned Assistant Advocate General, Haryana and have gone through the record.

A perusal of the record shows that the learned Judicial Magistrate Ist Class, Kurukshetra framed the charge against the private

respondents under Section 304-A IPC. Revision petitions were filed by the private respondents before the Sessions Court against the framing of the charge. The learned Additional Sessions Judge, Kurukshetra, vide order dated 1.10.2013 accepted the revision petitions and set aside the impugned orders dated 26.10.2012 regarding framing of the charge. In compliance with the orders dated 1.10.2013 passed by the learned Additional Sessions Judge, Kurukshetra in the revision petitions, the learned Judicial Magistrate Ist Class, Kurukshetra vide order dated 10.10.2013 (Annexure-P.3) discharged the accused/private respondents and files were consigned to the records. As the revision petitions are maintainable against the order of framing charge, therefore, the private respondents filed the revision petition before the Sessions Court and the learned Additional Sessions Judge in the revision petitions set aside the orders of framing of the charge. Therefore, the present petitioner is also to file the revision petition as these are intermediary orders and not interlocutory orders. The revision petitions filed by the present petitioner will be his first revision petitions. When the remedy by way of revision petition is available to the present petitioner, the petitions filed under Section 482 Cr.P.C. cannot be filed as the alternative remedy is available. Therefore, both these petitions filed by the petitioner under Section 482 Cr.P.C. are dismissed as alternative remedy by way of revision petition is available to the present petitioner.

February 16, 2016.

(Inderjit Singh)
Judge

hsp