

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-19253 of 2014 (O&M)

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Date of decision:16.2.2016

R.K. Aggarwal

...Petitioner

v.

State of Haryana and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Ajay Kumar Gupta, Advocate for the petitioner.

Mr. Himmat Singh, Deputy Advocate General, Haryana for
the respondent-State.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of case challan No.536/09 dated 18.8.2009, titled “DFO Versus R.K. Aggarwal” under Section 33 of the Indian Forest Act, pending in the Court of Civil Judge, Junior Division-cum-Presiding Officer, Special Environment Court, Faridabad and all consequential proceedings arising thereto.

Notice of motion was issued in this case.

Mr. Himmat Singh, learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent-State, also filed reply and contested this petition.

I have heard learned counsel for the petitioner as well as

learned Deputy Advocate General, Haryana for the respondent-State and have gone through the record.

From the record, I find that it is admitted at the time of arguments that the challan has already been presented. Notice of accusation has already been served and the Special Environment Court, Faridabad has already taken the cognizance.

The learned State counsel argued that when the Court after serving notice of accusation has taken the cognizance, then the petition filed for quashing is not maintainable.

On the other hand, leaned counsel for the petitioner argued that the petitioner has already sold the property which was in the name of his wife and he has not encroached upon any forest land etc.

After going through the record and after hearing learned counsel for the parties, I find that before presentation of challan, a notice was also issued by the respondents to the present petitioner, but he has not replied. No revision petition has been filed against the summoning order. The trial Court has already taken the cognizance. The finding of fact whether the present petitioner has committed the offence under the Indian Forest Act or not is to be given by the trial Court on the basis of evidence produced by the parties.

Therefore, in view of the above facts, at this stage, I do not find any ground to quash the complaint and the present petitioner is to prove his defence before the trial Court by leading evidence. Therefore, at this stage, I do not find any ground for quashing the challan and the consequential

proceedings arising therefrom. In no way, it can be held that the filing of complaint amounts to misuse of the process of law.

Therefore, finding no merit in this petition, the same is dismissed.

February 16, 2016.

(Inderjit Singh)
Judge

hsp