

CRM-M-26791 of 2016

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

**CRM-M-26791 of 2016 (O&M)
Date of Decision: August 5, 2016.**

Om Parkash

.. Petitioner(s)

VERSUS

State of Haryana and another

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

*** * ***

**PRESENT Mr.Arun Singla, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

This is a petition for quashing of FIR No.284 dated 9.7.2014, under Sections 420, 468 and 471 of the Indian Penal Code, Police Station, Sadar, Rohtak, registered at the instance of Azad Singh respondent No.2 alleging that the petitioner had given wrong date of birth at the time of enrollment in Army. He had obtained a certificate where date of birth has been shown as 10.4.1952 whereas his date of birth is 10.4.1947.

Counsel for the petitioner claims that 10.4.1952 is actual date of birth of the petitioner and he has never claimed his date of birth as 10.4.1947. He has further argued that even if the documents forming part of report under Section 173 (2) Cr.P.C., are carefully perused it would indicate that even in the Army, his date of birth has been recorded as 10.4.1952. Counsel for the petitioner also relies upon

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verification certificate sent to the Superintendent of Police on 20.8.2015 by Senior Record Officer for OIC Records, to the effect that date of birth of the petitioner is 10.4.1952 as per the Services Record. It has been urged that merely on the basis of the false allegations, FIR has been registered but the allegations have not been substantiated by any document or investigation and that lodging of FIR and the proceedings emanating therefrom are liable to be quashed.

Counsel for the petitioner has also submitted that his contentions are based upon documents which form part of report under Section 173 (2) Cr.P.C.

On asking of the Court, it has been informed that the challan has been presented but the trial Court has not till date framed the charges.

I have heard the counsel for the petitioner and perused the documents.

Since the report under Section 173 (2) Cr.P.C. and the documents appended therewith are not before this Court, this petition is disposed of, at this stage, with a direction that all the pleas raised by the petitioner in context to the material forming part of the report under Section 173 (2) Cr.P.C., would be taken into consideration by the trial Court at the time of consideration of the matter for framing of charges. In case the documents are indicative of the fact that the date of birth of the petitioner is 10.4.1952 and there has not been any document indicative of petitioner having ever claimed his date of birth

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as 10.4.1947, it will be open to the trial Court to pass an appropriate order discharging the petitioner by passing a speaking order. In case the contentions raised by the petitioner are not acceptable, it will be appreciated in case, in that eventuality also, a speaking order is passed. Passing of this order will not prejudice the right of the petitioner to approach this Court again.

(M.M.S. BEDI)
JUDGE

August 5, 2016.
rka

Whether speaking / reasoned
Whether Reportable:

Yes / No
Yes / No