

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

Cr. Misc. M 29470 of 2016

Date of decision: 24.8.2016

Jagteshwar Singh

Petitioner

vs.

State of Punjab and anr

Respondent

Present: Mr. Rajbir Singh, Advocate.

M.M.S.BEDI,J.

The petitioner seeks quashing of FIR No. 21 dated 25.3.2015 registered u/s 283/304 A IPC and Section 181 of the Motor Vehicle Act at P.S. Khamanoo, at the instance of respondent No.2 Inderjit Singh alleging that car of the petitioner had struck against the motor cycle, driven by his uncle Sujjan Singh.

Counsel for the petitioner has contended that as a matter of fact, it was Jasbir Singh, who was driving the vehicle and had parked the vehicle on the extreme left of the road when the deceased had struck against the stationary vehicle and died. He has also relied upon certain documents indicating that the spinal code of the petitioner is damaged and has also got his hip surgery done from the Fortis Hospital. It has also been submitted the petitioner has got pace maker inserted on account of his cardiac ailment. On the basis of these documents, it has been submitted that the petitioner has been falsely implicated in the case, after the death of Sujjan Singh. Counsel for the petitioner has relied upon a representation made to SSP, Fatehgarh Sahib informing that the petitioner is an old person and has been falsely implicated in the case. Copy of the said

representation, addressed to SSP, Fatehgarh Sahib is part of challan, showing that the said representation submitted on 15.9.2015 had been inquired into.

On asking of the court, counsel for the petitioner has made available a copy of the challan, which has been presented before the trial court. A perusal of the statement of Inderjit Singh u/s 161 Cr.P.C. and other documents, shows that the allegation against the petitioner is that he was found sitting on the driving seat of the car at the time of the accident. The claim of the petitioner is that he has got a strong defence evidence, available regarding the improbability and falsity of the story of the prosecution. The contents of the challan have been appreciated in context to the judgment in **State of Haryana and ors vs. Ch. Bhajan Lal and ors AIR 1992 SC 604** and I am of the considered opinion that after taking into consideration the statements of complainant, Bahadur Singh and other witnesses, it will not be appropriate for this court to enter into the niceties of the trail and pass the order for quashing of the FIR and other proceedings on the basis of probable strong defence evidence available with the petitioner.

Dismissed, without prejudice to the right of the petitioner to impeach the credibility of the witnesses on the basis of the defence pleas, taken up before this court. So far as the medical condition of the petitioner is concerned, I am of the opinion that in case the petitioner moves an application for exemption from personal appearance, on account of his ailments, the trial court shall consider the same and exempt his personal appearance, subject to any conditions, imposed upon him.

Nothing said in this order will prejudice the right of the prosecution or the petitioner. It will be appreciated in case the trial court

disposes of the trial, expeditiously, taking into consideration the age of the petitioner.

At this stage, counsel for the petitioner has submitted that charges have not yet been framed and the petitioner may be permitted to raise all the pleas, taken up before this court, before the trial court at the time of consideration of the charges. It will always be open to the petitioner to raise the pleas, taken up in this petition, at the time of framing of charges.

August 24 ,2016
TSM

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether Reportable

Yes/ No