

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-31243 of 2015

Date of decision: 05.01.2016

Asohni Kumar Sabharwal

.....Petitioner

versus

State of Punjab and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.P.S.Khurana, Advocate for the petitioner
Mr.A.P.S.Gill, AAG Punjab for respondent No.1
Mr.Sunil Chadha, Senior Advocate with
Mr.M.S.Atwal, Advocate for the respondent No.2

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing order dated 13.8.2015 (Annexure P1), passed by the learned Judicial Magistrate 1st Class, Ludhiana whereby the prayer of prosecution for discharge of the petitioner accused on the basis of supplementary challan was declined.

Brief facts of the case are that an FIR No.144 dated 11.5.2007 under Section 420 IPC was registered at Police Station Focal Point, Ludhiana against the present petitioner. After the completion of the investigation, the challan was presented in the Court. Later on, the police also presented the supplementary challan

on 29.10.2010 and filed an application for allowing the supplementary challan to be presented. The same was allowed by the then learned Judicial Magistrate 1st Class, Ludhiana vide order dated 29.10.2010 (Annexure P13). Later on, it was pressed before the learned Judicial Magistrate 1st Class, Ludhiana that in view of the supplementary challan accused may be discharged. The said prayer was rejected by the impugned order.

I have heard learned counsel for the parties and have also carefully gone through the file.

It comes out from the reading of the impugned order that the case is pending for framing of charge. The police has presented the challan and thereafter supplementary report under Section 173(8) Cr.P.C.

The contention of learned counsel for the petitioner is that the lower Court has held that further investigation has been carried out without the permission of the Court which would mean that the further investigation is not to be considered. Learned counsel for the petitioner contends that the same is contrary to law. In fact by the order dated 29.10.2010 (Annexure P13), an application was submitted by the prosecution to submit the supplementary challan and the same was allowed and supplementary challan was taken on record.

I am of the view that once the supplementary challan is taken on record, the learned Magistrate is required to consider both the reports at the time of framing of the charge and decide what course of action is to be taken i.e. whether the accused is to be

discharged or is to be charge sheeted on the basis of evidence collected during the investigation and further investigation.

It being so, the impugned order is set aside. The learned Magistrate is directed to hear both the parties on charge and appreciate the evidence collected during investigation and further investigation of the case along with the documents presented with the challan and supplementary challan and thereafter pass an appropriate order. It shall always be open for the lower Court to consider that in the report under Section 173(8) Cr.P.C. further investigation was carried out or re-investigation was carried out.

The lower Court is also directed to decide the question of framing of charge within one month from the date of receipt of a certified copy of the order of this Court.

The petition is accordingly disposed of.

05.01.2016
gk

(Kuldip Singh)
Judge