

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

Cr. Misc. M 35822 of 2016
Date of decision: 5.10.2016

Santokh Singh

Petitioner

vs.

State of Haryana and others

Respondent

Present: Mr. Ashit Malik, Advocate.

M.M.S.BEDI,J.

Regarding same occurrence, a State case and a private complaint had been pending before the same Magistrate. The endeavour of the complainant- petitioner in the private complaint was to try the same five accused along with two additional accused Mehal Singh and Lakhwinder Singh for additional offences u/s 326/307 IPC, whereas in the State case, challan has been presented u/s 324 IPC.

Counsel for the petitioner has submitted that the trial Magistrate has dismissed the complainant inter alia on the ground that challan has already been filed in the State case. Counsel for the petitioner gives up the claim against Mehal Singh and Lakhwinder Singh but has submitted that the accused are required to be tried for offence u/s 326 IPC, as per the evidence produced in the private complaint. The grievance of the petitioner is with the dismissal of the private complaint as it will not be feasible for the complainant to pursue for the framing of charges on the basis of the evidence u/s 326 IPC in exercise of powers u/s 216 Cr.P.C.

It has been urged by the counsel that great prejudice would be caused to the petitioner with the dismissal of the private complaint, which legally should have been decided and tried along with the State case.

After hearing counsel for the petitioner at length, it appears that the only grievance of the petitioner, at this stage, is that the petitioner will not be able to pursue the trial against the accused for having committed offence u/s 326 IPC despite the fact that the grievous injury has been caused in the present case with a sharp edged weapon.

In my view, if the prosecution agency is able to produce the relevant medical evidence during the course of trial, it will always be open to the petitioner or the prosecution agency to move an application u/s 216 Cr.P.C., which can be filed at any stage during trial.

Without expression of any opinion on merits of the case, this petition is disposed of without prejudice to the right of the petitioner to avail remedy u/s 216 Cr.P.C., in case the circumstances so warrant. Order of dismissal of the criminal complaint by the trial court dated 12.6.2015 and order dated 18.8.2016 passed by the revisional court will not, in any manner, prejudice the right of the petitioner.

October 5 ,2016
TSM

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether Reportable

Yes/ No