

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-36370 of 2015
Date of Decision: March 15, 2016

Abi Mohammad

.....Petitioner

Vs.

State of Punjab and ors.

.....Respondents

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

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Present:- Mr.Vibhor Bansal, Advocate
for the petitioner.

Mr. Jashanpreet Singh, AAG, Punjab.

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

Petitioner has filed the present petition under Section 482 Cr.P.C. for a direction to handover the investigation of the case to any other independent agency.

Reply has been filed by DSP City II, SAS Nagar, Mohali, informing that the FIR was registered at the instance of the petitioner against Tofique, Chand, Vishal and Guddu Nath who were nominated as an accused. After investigation Harjin, Shahrukh, Aalam @ Marutha and Shamo @ Mungi were arraigned as accused. Harjin was not properly identified. Challan was presented qua only Tofique, Chand, Vishal and Guddu Nath.

Now an application under Section 319 Cr.P.C. has been allowed summoning Kassam Din, Lal Hussain, Hassan Din and Chichu @ Noor Mohammad.

In view of the above circumstances, it will not be appropriate for this Court to refer the investigation to any other agency.

Petition is dismissed without prejudice to the rights of the petitioner to avail any other legal remedy available to him in accordance with law.

At this stage, counsel for the petitioner has vehemently urged that the conduct of the investigating agency has not been satisfactory as the challan has been presented without effectively investigating the matter.

The prosecution agency having already challaned four persons, remaining four persons having been summoned as additional accused, it will not be appropriate at this stage to enter into the niceties of the trial and to find out the culpability of the petitioner. In case the petitioner feels that any other accused sought to be arraigned has not been impleaded as party, it will always be open to him to file a private complaint against any other person to launch prosecution. Petitioner will avail alternative remedy i.e. to seek further investigation under Section 173 (8) Cr.P.C. by supplying material which is expected to be taken into consideration as per provisions of Section 163 (2) Cr.P.C. or to file a private complaint or file representation to the senior police officer indicating the material which has been ignored by the investigating agency at the time of presentation of challan.

March 15, 2016
sanjay

(M.M.S.BEDI)
JUDGE