

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

CRM-M No.4291 of 2015

Date of decision: 4th February, 2016

Daswandh Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

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

Present: Mr. D.S. Pheruman, Advocate
for the petitioner.

Mr. C.S. Brar, Dy. Advocate General, Punjab
for respondent No.1.

Mr. Vipin Mahajan, Advocate
for respondent No.2.

None for respondents No.3 and 4.

FATEH DEEP SINGH, J.

The brief facts that needs to be brought to light before venturing into the relative merits of this petition of petitioner Daswandh Singh under Section 482 Cr.P.C. seeking transfer and entrustment of the matter, which is by way of complaint titled 'Daswandh Singh v. Deep Raj Singh and others' (Annexure P/3), to the Court of Smt.Gurdarshan Kaur Dhaliwal, Additional Sessions Judge (Fast Track Court), Gurdaspur so that the same could be taken up along with another criminal case bearing FIR No.106 dated 24.09.2004

(Annexure P/1). What is elaborated in the submissions of the two sides as well as records is that on account of some family dispute between the parties over a sale deed executed way back in the year 1964 led to a fight on 19.09.2004 whereby it is alleged that the petitioner was caused injuries by the other side regarding which a DDR (Annexure P/2) was recorded but no criminal case was registered and instead by the other party a criminal case by way of FIR No.106 dated 24.09.2004 with Police Station Civil Lines Batala, District Gurdaspur (Annexure P/1) was registered under Sections 308/380/323/427/506/34 IPC. It is subsequent thereto, the petitioner claims that he filed a criminal complaint, on the basis of which summoning orders dated 31.05.2014 (Annexure P/4) were passed.

Thus, in the light of the same, the contentions of the petitioner's counsel Mr.D.S. Pheruman, Advocate are to the effect that both these cases should be fixed before the same very Court in terms of Section 210 read with Section 323 Cr.P.C. and which is sought to be opposed by the learned State counsel assisted by learned counsel representing respondent No.2 Mr. Vipin Mahajan, Advocate on the grounds that it is after a delay of nine years the complaint has been filed and the proceedings in the State case are at final adjudication and therefore, such a need is not necessitated, holding out further that there cannot be redressal of any such grievance as prayed for in terms of Section 482 Cr.P.C. Rather the petitioner ought to have invoked jurisdiction of this Court under Section 407 Cr.P.C.

It is well enunciated principle of law, reference of which can be taken note of the ratio laid down in '**Mohit @ Sonu & another v. State of UP & others**' 2013(3) RCR (Criminal) 673 that where a specific remedy has been provided under the Code of Criminal Procedure, the party ought to resort to such a provision. So where Section 407 Cr.P.C. ensures powers of the High Court to transfer such matters and filing of petition under Section 482 Cr.P.C. certainly, to the mind of this Court, is not maintainable as, such exercise of inherent powers of this Court is to be sparingly made in the rarest of the rare cases to advance a cause of justice and none of these eventualities figured out in the petition of the petitioner. Thus, finding no merit in the instant petition, the same stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 4, 2016

rps