

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

CRM No.M-5834 of 2016

Date of decision : March 04, 2016

Narinder Singh

...Petitioner...

versus

The State of Union Territory of Chandigarh

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers 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? (√)

Present : Mr. Pankaj Maini, Advocate,
for the petitioner.

JASPAL SINGH, J.

Through instant petition preferred under Section 482 of the Code of Criminal Procedure, petitioner has sought setting aside of order dated 30.09.2014 passed by JMIC, Chandigarh (Annexure P-1) in FIR No. 21, dated 22.01.2011, under Section 325 IPC, Police Station Sector 11, UT Chandigarh whereby an application moved by the petitioner for his discharge from the proceedings initiated in the aforesaid FIR has been dismissed AND further that the order dated November 18, 2015 (Annexure P-12) passed by Id. Additional Sessions Judge, Chandigarh in CRR No. 260 dated 15.10.2014 against the order dated 30.09.2014 has also been dismissed.

2. Undisputably, on the basis of a complaint moved by Ms.Amrit

Kaur wife of Harbhajan Singh Bhatti in respect of occurrence alleged to have been taken place on January 09, 2011, FIR No.21, dated 22.01.2011 was registered and after completion of all necessary investigation in the matter, report under Section 173 Cr.P.C. was presented against the petitioner for the commission of offence under Section 325 IPC. On the basis of contents of the report presented under Section 173 Cr.P.C. and the documents annexed with it, petitioner was charge-sheeted to face trial under Section 325 IPC and the case was listed for the evidence of prosecution. Subsequent thereto, after recording the statement of examination-in-chief Amrit Kaur, petitioner moved an application under Section 245 Cr.P.C. for his discharge, which has been dismissed by the ld. trial court vide order dated 30.09.2014. Revision petition preferred against the said order was also dismissed by ld. Additional Sessions Judge, Chandigarh vide order dated 18.11.2015.

3. Aggrieved against the order dated 18.11.2015 passed in revision petition, the petitioner has preferred the instant petition.

4. It is well settled that the scope and jurisdiction of revisional court is very limited. Ordinarily, the revisional court is not supposed to interfere with the order passed by the Court on first instance in a revision petition, if the impugned order is not found to be suffering from arbitrariness, illegalities or perversity.

5. Adverting to the facts of the case in hand, the petitioner has already been charge-sheeted to face trial under Section 325 IPC on the basis of evidence collected by the investigating agency.

6. It is well settled proposition of law that at the time of framing

of charge only the contents of report under Section 173 Cr.P.C. and the documents annexed with it are to be taken into consideration by the concerned court. At this stage, the court has not to minutely and meticulously go into the merit of evidence collected by the prosecution and consider in detail and weigh in a sensitive balance whether the facts if proved, would be incompatible with the innocence of the accused or not. Even a charge can be framed against the accused on the basis of a strong suspicion.

7. Sections 227, 239 and 245 deal with discharge from criminal charge. In *State of Karnataka v. L. Muniswamy*, it was noted that at the stage of framing the charge the Court has to apply its mind to the question whether or not there is any ground for presuming the commission of offence by the accused. The Court has to see while considering the question of framing the charge as to whether the material brought on record could reasonably connect the accused with the trial. Nothing more is required to be inquired into.

8. In *R.S. Nayak v. A.R. Antulay*, this Court referred to Sections 227 and 228 so far as they are relatable to trial. Sections 239 and 240 are relatable to trial of warrant cases and 245 (1) and (2) relatable to summons cases.

9. After analyzing the terminology used in the three pairs of sections, it was held that despite the differences, there is no scope for doubt that at the stage at which the Court is required to consider the question of framing of charge, the test of a prima facie case to be applied.

10. Adverting to the facts of the case in hand, there are specific

allegations against the petitioner about the commission of offence as well as involvement. Thus, it is sufficient for the Court to frame charge. At this stage, there is no necessity of formulating the opinion about the prospect of conviction. That being so, the impugned order does not call for any interference and the instant petition being devoid of merit stands dismissed.

11. However, the petitioner shall be at liberty to take all the pleas taken in this petition during the course of trial before the trial court. It is also made clear that any observation made in this order shall have no binding effect on the merits of the case.

March 04, 2016

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**(JASPAL SINGH)
JUDGE**