

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-7425 of 2016

.....

Date of decision:28.3.2016

Sunil Inder Singh

...Petitioner

v.

State of Punjab and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. H.S. Rakhra, Advocate for the petitioner.

.....

Inderjit Singh, J.

This criminal miscellaneous petition has been filed by petitioner under Section 482 Cr.P.C. for setting aside the impugned order dated 2.2.2016 (Annexure-P.8) vide which the learned trial Court has directed the petitioner/complainant to adduce the pre-charge evidence and the learned lower Court has refused to treat the present case as a case instituted on a police report.

From the record, I find that Sunil Inder Singh-complainant filed complaint against Jagdeep Singh and others for the offences under Sections 166, 209, 220, 323, 329, 342, 347, 348, 357, 364, 365, 367, 368, 379, 386, 452, 506, 307, 511, 222, 223 read with Section 120-B/34 IPC.

After the filing of the complaint, preliminary evidence was produced and the Court summoned the accused for the offences under

Sections 209, 323, 329, 342, 347, 348, 357, 364, 365, 367, 368, 379, 386, 452, 307, 511, 506 read with Section 120-B/34 IPC and vide order dated 16.4.2009, the case was committed to the Court of Session as keeping in view that offences under Sections 329, 364, 367 and 368 and 307 IPC are exclusively triable by the Court of Session. The then learned Additional Sessions Judge (Fast Tract Court-2), Bathinda, vide order dated 7.5.2010 held that the offences under Section 307, 329, 364, 367 and 368 IPC are not attractive and the case was again sent to the Court of Judicial Magistrate Ist Class for further proceedings as per law. After this order, again an application was filed by the complainant for committing the case before the Court of Session, which was dismissed. Then revision petition was filed against that order, which was also dismissed by the Additional Sessions Judge, Bathinda. The learned trial Court fixed the case for pre-charge evidence.

At the time of arguments, learned counsel for the petitioner argued only on one point that the Court is to treat the present complaint case as a case instituted on a police report.

I have gone through the record and have heard learned counsel for the petitioner.

From the record, I find that a criminal complaint has been filed by the complainant and on the basis of preliminary evidence the accused have been summoned. The procedure in this case is to be adopted as prescribed in the Cr.P.C. of a complaint case i.e. case instituted otherwise than on police report. When the complaint has been filed and summoning

[3]

order has been passed as it being a warrant case, the case is to be fixed for pre-charge evidence. There is no question of treating this complaint as instituted on police report. This application filed by the present petitioner is totally frivolous and false and for the purpose of delaying the proceedings of the complaint case. The Magistrate has not taken any cognizance under Section 190 Cr.P.C. to initiate the criminal proceedings. Only in that case, the proceedings are to be taken as instituted on police report. It is a private complaint case filed by the present petitioner. From the record, it looks that the petitioner is more interested in delaying the proceedings and filing such type of applications.

There being no merit in this petition, the same is dismissed. The learned trial Court is directed to conclude the pre-charge evidence at the earliest and if the complainant tries to file application, then to give the complainant specific opportunities for leading the evidence and if the Court feels that the complainant is not completing the evidence expeditiously that is within the given opportunities, then can pass order as per law.

With these observations, this petition is disposed of.

March 28, 2016.

(Inderjit Singh)
Judge

hsp