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

CRM-A-1208-MA of 2014 (O&M)

Date of decision: April 19, 2017

Jagdish Rai

.....Applicant

Versus

Raj Sharma

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Subhash Ahuja, Advocate for the applicant.

Mr. Siddharth Gupta, Advocate for the respondent.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties at length.

Learned counsel for the applicant contended that the applicant had filed Criminal Miscellaneous Application before Balwant Singh, Chief Judicial Magistrate, Sirsa on 13.12.2013 for consolidation of two cases, namely FIR No.205 dated 15.07.2008, under Sections 279, 337, 427 of Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station City Mandi Dabwali and private complaint case bearing No.17-1 of 2008, instituted on 10.11.2008/01.07.2013. Application was decided by which consolidation order was made on 13.01.2014.

It is not in dispute that incident is stated to be of 13.7.2008 and accordingly, FIR was also lodged on 15.07.2008 so also the police case. The applicant also filed private complaint case as aforesaid. The applicant examined himself in the trial Court and cross-examination.

Vide para 15 of the judgment of the trial Court, he admitted in his cross-examination that he did not mention that the car in question was Alto car and the accused was Raja Sharma in Ex.D3, i.e. the statement given by him to the police.

Learned counsel for the applicant submits that in other case he has mentioned about it that is why the trial Court ought to have waited in respect of the order regarding consolidation application.

However, learned counsel for the applicant fairly states that neither applicant nor his counsel made any application to the trial Court about the pendency of the applicant that was filed by him on 13.12.2013 and as such, the trial Court recorded the decision on 19.02.2014 that is almost two months after the institution of the application for consolidation. Therefore, there was no reason for the trial Court to imagine that some application was moved by the applicant before the Chief Judicial Magistrate, Sirsa for consolidation of two cases. One can understand the trial Court being informed of the same, but there is nothing on record to show. Learned counsel for the applicant submits that it was orally informed. It is not possible to accept such a statement since in the Courts, there is no procedure like oral information to the Court unless the same is found recorded in the zimini orders or in the judgment. At any rate, the incident relates to the year 2008 and it is too late to interfere in the matter. Coupled with the fact that the petitioner himself admitted in the cross-examination that he did not name the accused Raja Sharma as a person who was driving the car nor he named car. It appears there is no substance in the matter.

Hence, no ground is made out to grant leave to file an appeal. Accordingly, this application is dismissed.

(A.B. CHAUDHARI)
JUDGE

April 19, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No