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

CRM-M-17832 of 2017 (O&M)

Date of decision: August 01, 2017

Narender Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present: Mr. Parveen Chauhan, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

Mr. Deepak Sabharwal, Advocate
for respondents No.2 and 3.

A.B. CHAUDHARI, J (Oral)

At the oral request made by the learned counsel for the rival parties, next date fixed in the main case, i.e. 18.09.2017 is preponed and is taken up for hearing today itself.

Heard learned counsel for the rival parties.

This petition is directed against the order dated 09.05.2017 (Annexure P-16) passed by the learned trial Court.

In support of the petition, learned counsel for the petitioner submits that he being a co-accused has a right to apply for alteration of charge under Section 216 of Code of Criminal Procedure, 1973. The trial Court framed the charge against the co-accused who is not a public servant, but is a dealer. Whereas, the petitioner is a public servant as also held by the trial Court while rejecting the said

application filed by the petitioner that he was not a public servant.

The application was made by the petitioner on the ground that certain bills were forged by the co-accused Milkhi Ram and therefore, charge under Sections 420, 467, 468, 471 of Indian Penal Code, 1860 should have been made. It is doubtful whether the bills recovered by M/s Viren Fertilizer as such would be the documents of valuable security. But then without expressing any opinion, the issue must be left for recording charge at a later stage on evidence including documentary evidence. In my opinion, the petitioner does not have a *locus standi* to make such prayer when he was neither the complainant nor lodged any FIR and it appears that the petitioner has made an attempt first to say that he is not a public servant and secondly, filed the present petition for protracting the trial. The trial Court knows the law that the charge can be altered at any stage of rebutting on the nature of evidence. However, the petition at the instance of the petitioner cannot be entertained.

In that view of the matter, the petition is dismissed, with costs in the sum of ₹5,000/- payable to the Haryana Agro Industries Corporation Ltd. by the petitioner. Haryana Agro Industries Corporation Ltd. has failed to get the property of the petitioner and his co-accused attached despite the fact of huge misappropriation of amount in the sum of ₹1.39 crores. Learned counsel for Haryana Agro Industries Corporation Ltd. now states that immediate steps will be taken to attach the property of the petitioner and his co-accused,

according to law. The Haryana Agro Industries Corporation Ltd. shall also obtain explanation from the concerned officer who failed to apply for attachment of property and proceed against him according to law.

(A.B. CHAUDHARI)
JUDGE

August 01, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No