

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

**CRM-M No.30113 of 2016
Decided on: 10.11.2017**

Harjinder Kaur

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. A.S. Sekhon, Advocate
for the petitioner.

Mr. Amandeep S. Gill, Sr. DAG, Punjab.

Mr. K.S. Mann, Advocate
for respondents No.2 to 4, 5 and 7.

Mr. K.S. Sekhon, Advocate
for respondents No.8 to 10.

ARVIND SINGH SANGWAN J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') seeking quashing of the order dated 24.02.2016 passed by the Additional Chief Judicial Magistrate, Sri Muktsar Sahib vide which the application filed by the petitioner for trying together the cases titled as Harjinder Kaur vs Chanan Singh and others and State vs Chanan Singh and others pending in the Court of Additional Chief Judicial Magistrate, Sri Muktsar Sahib with the complaint titled as Tara Singh vs Chamkaur Singh and others pending in the Court of Additional Sessions Judge, Faridkot, was dismissed as well as for setting-aside the order dated

20.07.2016 passed by the Additional Sessions Judge, Faridkot whereby the revision filed by him against the order dated 24.02.2016 has been dismissed.

Brief facts of the case are that one FIR No.47 dated 06.07.2013 under Sections 452, 382, 341, 323, 148 and 149 of the Indian Penal Code (in short 'IPC') at Police Station Sadar, Sri Muktsar Sahib was registered on the statement of Makhan Singh son of Anokh Singh. After presentation of the challan, the same is now pending in the Court of Additional Chief Judicial Magistrate, Sri Muktsar Sahib. A complaint filed by Harjinder Kaur vs Chanan Singh under Sections 452, 323, 341, 382, 148 and 149 IPC is also pending in the Court of Additional Chief Judicial Magistrate, Sri Muktsar Sahib. Later on, one complaint was also filed by Tara Singh against Chamkaur Singh under Sections 323, 325, 452 IPC and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the SC & ST Act') which is also pending in the Court of Additional Chief Judicial Magistrate, Sri Muktsar Sahib. During the pendency of these cases, the petitioner filed an application for trying the aforesaid cases together as the same are arising out of the same occurrence and are in fact version and cross-version.

The trial Court while deciding the application, vide its order dated 24.02.2016 held that the complaint filed by Tara Singh under the SC & ST Act has been committed to the Special Judge, Sri Muktsar Sahib as the occurrence in this case is dated 02.07.2013. It was further observed that the occurrence relating to FIR No.47 dated 06.07.2013 and the complaint filed by Tara Singh against Chamkaur

Singh relates to the occurrence dated 06.07.2013 and, therefore, all the prayer for trying all cases together cannot be allowed and dismissed the application. Thereafter, the petitioner filed a revision before the Revisional Court which was dismissed by the Revisional Court vide order dated 20.07.2016. The relevant extract of the order dated 20.07.2016 passed by the Revisional Court reads as follows:-

“5. After hearing their respective submission and perusal of record reveals the fact that one complaint instituted by Tara Singh titled as Tara Singh versus Chamkaur Singh and others is now pending in this Court for defence evidence, which was already committed by the Court of learned ACJM, Sri Muktsar Sahib even at the time of decision of application moved by the revisionist. Furthermore, perusal of this complaint it is revealed that the allegations levelled are different and Tars Singh is complainant, who has neither been arrayed as accused in the complaint instituted by revisionist titled as Harjinder Kaur versus Chanan Singh and others and nor even in the police challan State versus Chanan Singh etc. arising out of FIR No.47, which are pending in the Court of learned ACJM, Sri Muktsar Sahib. Further from the perusal of record, it is also revealed that the Court is already taking up both the cases together i.e. complaint instituted by revisionist titled as Harjinder Kaur versus Chanan Singh and others as well as FIR No.47 titled as State versus Chanan Singh etc., which are pertaining to the same occurrence.

6. Learned counsel for revisionist has failed to bring any such material, which proves the fact that the complaint pending in this Court for defence evidence titled as Tara Singh versus Chamkaur Singh etc. also pertains to the same occurrence, rather it is entirely different and has

no concern with the other two cases, which are pending in the Court of learned ACJM. Further, perusal of impugned order also reveals that both the cases were already ordered to be tried together, which are titled as State versus Chanan Singh etc. and Harjinder Kaur versus Chanan Singh etc. being pertaining to the same occurrence. Due to these observations that the facts are entirely different qua complaint, which is pending in this Court, then cases should not be clubbed in this manner, when they are on different allegations and different parties, because Tara Singh is not accused in other cases, which are pending before the Court of learned ACJM. Accordingly, in such circumstances, the law referred by learned counsel for respondents in Pal @ Palla versus State of Uttar Pradesh (supra) also gives help to his stand.

7. Keeping in view above discussion, documents on record, this Court is of considered view that the learned lower Court has rightly appreciated the facts brought before that very Court and rightly arrived at the conclusion that the complaint pending in this Court has not arisen out of the same occurrence for which two other cases titled as Harjinder Kaur versus Chanan Singh and others and State versus Chanan Singh etc. are pending in that very Court. Consequently, neither any illegality has been found in the impugned order and nor the same is found to be perverse. Accordingly, the impugned order has not caused any prejudice upon the rights of revisionist, therefore, interference by this Court is neither warranted and not justified. Consequently, the revision petition is hereby dismissed. Learned trial Court file be returned along with a copy of this order and the revision petition file be consigned to record room after due compilation.”

The petitioner has challenged the aforesaid orders passed by the Courts below in this petition. It is submitted on behalf of the

petitioner that all the 03 cases should be clubbed together for the purpose of decision as they are arising out of the same occurrence and this aspect has not been appreciated by both the Courts below.

On the other hand, the learned State Counsel as well as learned counsel for respondents have opposed the prayer on the ground that the complaint pending before the Additional Sessions Judge relate to a different occurrence.

After hearing counsel for the parties, I find no merit in the present petition. A careful perusal of the record show that a complaint instituted by Tara Singh titled as Tara Singh vs Chamkaur Singh is pending in the Court of Additional Sessions Judge, Sri Muktsar Sahib and is at a stage of defence evidence and was committed before the said Court even before filing of the application before the Additional Chief Judicial Magistrate. A perusal of the record further show that the trial Court/Additional Chief Judicial Magistrate is already taking up the 02 cases together i.e. complaint instituted by the petitioner – Harjinder Kaur against Chanan Singh as well as the aforesaid FIR No.47 dated 06.07.2013 which are pertaining to the same occurrence. The 3rd case i.e. the complaint titled as Tara Singh vs Chamkaur Singh is pending before the Court of Additional Sessions Judge as the offence being punishable under the SC & ST Act is triable by a Court of Sessions. This case is at advance stage and do not pertain to the same occurrence and the aforesaid 02 cases which are pending in the Court of Additional Chief Judicial Magistrate, Sri Muktsar Sahib relates to a different date of occurrence.

In view of the above, I do not find any illegality in the

impugned orders passed by both the Courts below. Accordingly, the petition fails and is hereby dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

10.11.2017
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No