

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

**CRM No.M-34974 of 2017(O&M)
Date of Decision: September 19, 2017**

Pankaj Kumar

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Arnab Sood, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondents State of Punjab and Kewal Krishan for quashing the order dated 09.09.2017 passed by learned Sessions Judge, Hoshiarpur and for transferring case FIR No.98 dated 05.09.2010 under Section 420 and 406 and 120-B IPC registered at Police Station City, Hoshiarpur.

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

From the record, I find that an application for transfer of criminal case pending in the court of learned Addl. Chief Judicial Magistrate, Hoshiarpur was filed before Court of Session, on the ground that the complainant in the criminal case earlier filed civil suit against the accused of the present case and two other persons, which was decided in favour of the complainant of the present case and in that eventuality, learned trial court has already given its mind while deciding the civil litigation

which would affect the merits of the present case. Learned Sessions Judge,

Hoshiapur, vide impugned order dated 09.09.2017, dismissed the application.

Aggrieved from the above-said order dated 09.09.2017, present petition has been filed.

From the record, I find that only ground for transfer of the criminal case pending before learned ACJM, Hoshiarpur, as argued, is that the civil suit between the parties on the same facts has already been decided by the Presiding Officer, therefore, he has expressed his opinion. Learned Sessions Judge, Hoshiarpur, has discussed in the impugned order that the civil suit is to be decided on the basis of preponderance of the evidence whereas in a criminal case, the prosecution is required to prove its case beyond reasonable doubt. Furthermore, I find that, it is settled law that findings given in a civil case are not binding on the criminal case and vice-versa. The prosecution is to prove its case beyond reasonable doubt by leading cogent evidence.

Furthermore, the Presiding Officer is to decide the case only on the basis of evidence which is to be produced by the prosecution in this case and the Presiding Officer cannot consider the findings given in the civil case or cannot consider any evidence produced in the civil case. So, the apprehension of the present petitioner is unfounded. No ground is made out for transferring the case.

Therefore, finding no merit in the present petition, the same is dismissed.

September 19, 2017

Vgulati

Whether speaking/reasoned

Whether reportable

(INDERJIT SINGH)

JUDGE

Yes

No