

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

CRM No.M-3573 of 2015 (O&M)

Date of Decision: March 14, 2017

Shamsher Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Raman Goklaney, Advocate
for the petitioner.

Mr.Deep Singh, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 10.10.2013 passed by learned Judicial Magistrate Ist Class, Ferozepur, vide which the petitioner has been wrongly charge-sheeted in case FIR No.83 dated 03.07.2012 under Sections 379, 411, 420, 465, 467, 468, 471 and 120-B IPC and also judgment dated 02.07.2014 passed by learned Addl. Sessions Judge, Ferozepur, vide which the revision filed by the petitioner was dismissed.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

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

The perusal of the report under Section 173 Cr.P.C. shows that FIR was registered on the basis of secret information which includes the name of present petitioner Shamsher Singh. As per the informer, co-accused Surjit Singh, Gurbachan Singh etc. along with the present petitioner have made a gang and involved in sale of stolen vehicle by altering engine and chassis numbers.

No recovery has been effected from the present petitioner nor any cogent evidence has been shown by learned State counsel at this stage, except the FIR, which has been registered on the basis of the secret information. As no prima facie evidence is shown, therefore, learned trial Court has wrongly framed the charges against the present petitioner.

It is settled law that for framing of the charge, the Court is only to see prima facie case and not to weigh the evidence for the purpose of conviction but at the time of arguments, learned State counsel has failed to point out any statement or any other evidence to connect the petitioner with the crime.

Learned State counsel has argued that further investigation has been conducted and report under Section 173(8) Cr.P.C. has already been presented before the Court and there are statements of witnesses against the present petitioner showing his involvement. From the record, I find that when the charges were framed, at that time, no report under Section 173(8) Cr.P.C. was presented against the present petitioner.

In view of the above discussion, I find that order framing the charge against the present petitioner is not as per evidence and law.

Therefore, finding merit in the present petition, the same is allowed. The

judgment dated 02.07.2014 passed by learned Addl. Sessions Judge, Ferozepur, are set aside. The matter is remanded back to the trial Court to consider whether in view of the supplementary challan as well as the challan already presented, any prima facie case is made out for framing the charge against the accused-petitioner or not and to pass the order accordingly after hearing the parties, as per law.

March 14, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No