

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-38074 of 2015 (O&M)

.....

Date of decision:2.5.2017

M.P. Singh

.....Petitioner

v.

Assistant Provident Fund Commissioner

.....Respondent

....

Present: Mr. Rakesh Bhatia, Advocate for the petitioner.

Mr. Gourav Tangri, Advocate for the respondent.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. seeking quashing of the order dated 28.10.2015 (Annexure-P.15), whereby the application filed under Section 220 Cr.P.C. by the petitioner for seeking trial of all 53 complaints under Sections 6, 14(1A), 14A(1) of the Employees Provident Fund & Misc. Provision Act, 1952 (hereinafter referred to as 'the Act') at one trial, which are pending in the Court of learned Additional Chief Judicial Magistrate, Ropar for 6.11.2015 and further directed the learned trial Court to try all pending complaints between the same parties under the provisions of the Act in one trial.

Notice of motion has been issued in this case.

Mr. Gourav Tangri, learned Advocate has put in appearance on behalf of the respondent and contested this petition.

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

From the record, I find that an application was filed by the present petitioner under Section 220 Cr.P.C. for trying all the connected complaints at one trial. It is stated that in the application that different complaints are pending against the applicant (petitioner herein) on that day as well as on 29th and 30th October, 2015 before the trial Court. The same have been filed against the Company as well as its Managing Director. It is stated that issues in all the complaints are the same for not depositing the Employees Insurance, Pension Scheme etc., but the complainant has chosen to file as many as fifty three complaints on monthly accounts. Hence, the applicant/petitioner has prayed for joint trial for all the complaints.

The learned counsel for the complainant contested the application on account of non-deposition of inspection charges under employees insurance, pension scheme for different period, the applicant/accused has committed distinct and separate offences on every account. In accordance with the different offences, separate complaints were instituted, which are liable to be tried separately as the same pertain to different period of time. Accordingly, counsel for the complainant has prayed for dismissal of the application.

Learned Additional Chief Judicial Magistrate, Ropar, vide order dated 28.10.2015 (Annexure-P.15) dismissed the application. Aggrieved from this order, the present petition has been filed.

Section 220 Cr.P.C. provides as under:-

“220.Trial for more than one offence.- (1) If, in one series of acts so connected together as to form the same transaction,

more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

(2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in sub-section (2) of section 212 or in sub-section (1) of section 219, is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.

(3) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

(4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(5) Nothing contained in this section shall affect section 71 of the Indian Penal Code (45 of 1860).”

A perusal of the record nowhere shows that these offences have been committed in one series of acts to form the same transaction. Every breach of the provisions of the Act for not depositing inspection charges etc. is a separate cause of action. If the employer commits default for non-payment of these charges etc. then every time he commits a separate offence. In no way, it can be held as one transaction. This provision under Section 220 Cr.P.C. is not applicable. Otherwise also, all these complaints cannot be tried in one trial. It will mean that he will be convicted only in one trial. When the accused/employer has not deposited the inspection charges under the Act for two-three years or defaults have been committed in separate months, then for every commission of offence a separate complaint lies and he is punishable for every such offence. The purpose of filing of this application by the present petitioner is that he should not be convicted for commission of offences committed 53 times but only for once.

I have gone through the order passed by the learned Additional Chief Judicial Magistrate. The learned Court below after discussing the law and the provisions of Section 220 Cr.P.C. found that there is no intimate connection between the different and separate violations committed by the applicant. The Court held that it is evident from the complaints that these have arisen on account of the failure of the accused to deposit the inspection charges etc. on different points of time. The charges were liable to be deposited every month. The violations committed every month cannot be connected to previous violation so as to call it to be under one series or under the same transaction. The findings given by the learned Additional

Chief Judicial Magistrate, Rupnagar in the order dated 28.10.2015 are correct as per law. In no way, it can be held that the learned Magistrate has committed any illegality by passing the order.

Therefore, from the above, I find that the impugned order is as per law and the same is upheld.

Finding no merit in the present petition, the same is dismissed.

May 2, 2017.

(Inderjit Singh)
Judge

hsp

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