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

CRR No.3870 of 2013

Date of decision: September 04, 2017

Sachin Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

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

Present: Mr. S.S. Rangi, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG Punjab.

A.B. CHAUDHARI, J (Oral)

Rule. Heard forthwith with the consent of learned counsel for the rival parties.

Petitioner has put to challenge order dated 12.09.2013 (Annexure P-1) framing charge against the petitioner. The charge was framed on 12.09.2013 and this Court had stayed the trial vide order dated 13.12.2013 qua the petitioner.

Learned counsel for the petitioner has raised several submissions before me, *inter alia*, that the trial being the Magisterial trial, which could be held only before the Magistrate Court at Amloh. Accordingly, the trial is going on at that place also, but the Special judge has framed the charge against the petitioner. He has also raised several other points in the present petition. However, I find, Section 227 of Code of Criminal Procedure, 1973 (for short 'Cr. P.C.'), allows the accused to raise all the pleas for opposing the framing of charge or

for claiming discharge from the prosecution. Perusal of the impugned order of framing of charge shows that the petitioner did not argue at all for discharge under Section 227 Cr. P.C. nor he opposed the framing of charge. Since as already stated, stay has been granted by this Court right from 2013, the trial qua the petitioner, obviously, could not be held. In that view of the matter, I think the proper course would be now to make the following order:-

ORDER

- (i) CRR No.3870 of 2013 is disposed of with a direction to the trial Court to hear the petitioner-accused, if the petitioner applies for discharge under Section 227 Cr. P.C. before the trial Court;
- (ii) After hearing the petitioner on the question of framing of charge/discharge, the trial Court shall make a reasoned order accordingly;
- (iii) In case, the application for discharge under Section 227 Cr. P.C. is not made, the trial Court shall proceed further in accordance with law;
- (iv) This exercise shall be done within a period of 2 months from today.

(A.B. CHAUDHARI)
JUDGE

September 04, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No