

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2971-2017 (O&M)

Date of decision: September 19, 2017.

Nachhattar Singh Brar

... **Petitioner**

v.

State of Punjab and others

... **Respondents**

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

Present: Shri Karanvir Singh Khehar, Advocate for the petitioner(s).
Shri Ramandeep Singh Sandhu, Sr. Dy. AG, Punjab.

A.B. Chaudhari, J. (Oral):

CRM-29557-2017 is allowed; the main case is pre-poned to
today and taken on board.

Notice of motion to the respondent-State. Mr. Sandhu waives
service.

Rule. Heard forthwith.

By the present petition, there is a challenge to the order dated
7.7.2017 in case CIS No.PC 1-2017 made by learned Additional Sessions
Judge, Faridkot framing the charge. Learned Counsel for the petitioner
submits that before making an order framing charge, the petitioner had
raised an argument before the trial court for not framing the charge because,
according to the petitioner, there is no material brought on record to frame
any charge against the petitioner. According to him, the only prosecution
allegation inter-alia is that the petitioner had distributed the vehicle

numbers to the persons who had not applied for the same. He therefore submits that there is no prima facie case for framing the charge against the petitioner.

Per contra, Learned Counsel for the State submits that the order framing charge need not contain the reasons as Section 227 Cr.P.C. does not say so. He therefore prayed for dismissal of the petition.

On hearing learned counsel for the rival parties, I find that the order framing charge dated 7.7.2017 reads thus:

“Report regarding status qua Mehar Singh has not been received.

Heard. After hearing the arguments and from the perusal of documents on file, a prima facie case under Sections 420/467/468/471/201/120-B IPC & 13(1)(d), 13(2) of the Prevention of Corruption Act, 1988 is made out against the accused and the accused have been charge sheeted accordingly, to which they pleaded not guilty and claimed trial. Let prosecution witnesses be summoned for 11.8.2017.”

Perusal of the order shows that the learned trial court heard the arguments and perused the documents on the file. The trial court then suddenly came to the conclusion that prima facie case was made out for framing the charge and therefore charge was framed. But there is no reference to any specific argument or documents. This Court has taken a view in CRR No.3159 of 2017 (Suresh Chand v/s State of Haryana and another), decided on 6.9.2017, as under:-

“In my opinion, therefore, Section 227 Cr.P.C. contemplates giving of reasons when the accused contests framing of the charge. In the present case, however, I find that the second

order impugned in this petition namely framing of charge is sans any reason though there was a contest raised by the accused.”

In that view of the matter, the impugned order will have to be set aside as it is a non-speaking order and the framing of charge was opposed by the petitioner. In the result, I make the following order:-

ORDER

- (i) CRR-2971-2017 is partly allowed;
- (ii) impugned order dated 7.7.2017 framing charge against the petitioner is set aside;
- (iii) proceedings are remitted to the trial court for fresh hearing and order on the question of framing of charge or otherwise, within a period of eight weeks from the date of production of this order;
- (iv) the petitioner shall be responsible in carrying the writ of this Court and producing before the trial court within a week from today.

Disposed of.

September 19, 2017.

kadyan

[A.B. Chaudhari]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No