

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3823-2017

Date of decision: 25.10.2017

Manmohan Singh Lall

...Petitioner

Vs.

State of Punjab

...Respondent

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

Present : Mr. Sunil Chadha, Sr. Advocate with
Ms. Arti Kaur, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

A.B. CHAUDHARI, J. (Oral)

Heard learned counsel for the rival parties at length.

This Court had passed an order on 13.10.2017 which reads
as under:

***“ Heard learned senior counsel for the petitioner.
Perused the impugned order.***

***He submits that he had filed detailed application
for discharge and opposed the framing of charge. Not
only that he submits that additional written arguments
(Annexure P- 4) has also been filed before the trial
Court. According to him there is non-consideration of
the averments in the written arguments and therefore
order suffers from the non-giving of reasons for not
discharging the accused.***

Notice of motion returnable for 25.10.2017.”

The short controversy involved in the present matter is as to
whether the trial Court ought to have recorded the reasons for framing
charge and whether the reasons recorded would meet the requirement.

Learned Senior counsel for the petitioner submits that the
petitioner had filed an application under Section 239 Cr.P.C. in the

Special Case No. 21/11.07.2013 for discharge of the petitioner. The discharge was claimed on a number of factual as well as legal grounds. Inviting my attention to Annexure P-4, learned Senior counsel submits that in support of all the pleas for discharge, written arguments were also submitted. He further submits that the impugned order does not show consideration of at least the vital points raised by the petitioner for not framing charge. Consequently, there are no reasons recorded in the impugned order.

Per contra, learned counsel for the respondent-State opposed the petition and submitted that there are some reasons in the impugned order and the trial Court cannot be expected to write a detailed judgment giving reasons for framing charges. He prayed for dismissal of the petition.

Upon hearing learned counsel for the rival parties and upon perusal of the application under Section 239 Cr.P.C. for discharge and also the written arguments, it is found that the trial Court has not considered the factual and legal aspects averred in the application as well as stated in the written arguments.

This Court has taken a view in ***CRR No. 3159 of 2017*** titled as ***Suresh Chand vs. State of Haryana and another*** that if there is contest in the matter of framing of charge by the defence of the accused, it would be necessary to record the reasons for framing charge as the recording of the reasons is the heart and soul of a judicial order. In the instant case, I find that all the factual as well as legal points raised by the petitioner have not been considered and proper reasons have not been given. The impugned order suffers from the legal error. Having

said so, the only course left open is to send the matter back to the trial Court for fresh consideration. Hence, the following order is passed:

Order

- (i) Impugned order dated 28.09.2017 is quashed and set aside.
- (ii) The trial Court will re-consider the application for discharge by allowing the petitioner to argue or contest the framing of charge and the same may be done within a period of two months from today.

October 25, 2017
Ansari

(A.B. CHAUDHARI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No