

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

CWP 4374 of 2017

Date of decision: 3.3.2017

Gurcharan Singh

Petitioner

vs.

State of Punjab and ors

Respondent

Present: Mr. DN Ganeriwala, Advocate

M.M.S.BEDI,J.

The petitioner is a complainant in a criminal case i.e. FIR No. 57 dated 6.5.2016 u/s 304-B IPC registered at P.S. Nehianwala, District Bathinda.

The grievance of the petitioner is that Jagseer Singh and Jaswinder Kaur, father-in-law and mother-in-law of deceased sister of the petitioner were arrayed as accused in the above said FIR but as they could not be arrested, challan was presented u/s 173(2) Cr.P.C. mentioning therein that supplementary challan will be presented against the above said two persons as and when they are arrested. The grievance of the petitioner is that a report has been prepared on the basis of an inquiry conducted by Superintendent of Police (Traffic), in which the said two persons Jagseer Singh and Jaswinder Kaur had been declared innocent within a period of two days of the submission of an application by Mandeep Kaur daughter of Jagseer Singh and Jaswinder Kaur. Copy of report dated 9.2.2017 obtained under the RTI Act, has been challenged in the present writ petition on the ground that the second inquiry/ investigation was not maintainable without the permission of the trial court after presentation of the challan.

I have heard counsel for the petitioner and I am of the opinion that the right of the petitioner to claim trial by summoning Jagseer Singh and Jaswinder Kaur as additional accused u/s 319 Cr.P.C. is not, in any manner, prejudiced by the report (Annexure P-4), which till date has not been presented in the trial court.

Since the prosecution agency has not opted to present any supplementary challan u/s 173 (8) Cr.P.C. claiming accused Jagseer Singh and Jaswinder Kaur as innocent, the present writ petition is pre-mature.

The petition is disposed of as pre-mature. However, it is observed that the right of the petitioner u/s 319 Cr.P.C. to summon the additional accused will not be prejudiced by report (Annexure P-4) as the same has not been presented in the court till date and is not sought to be relied upon to supersede the earlier report filed u/s 173(2) Cr.P.C. against Sandeep Singh and others.

March 3, 2017
TSM

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether Reportable

Yes/ No