

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

122

CRM-M-11956-2018

Date of Decision: April 18, 2018

Shri G Vijay Bhasker

.....Petitioner(s)

versus

Puneet Sood and another

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Kartikeya Swaroop Mehta, Advocate
for the petitioner.

Sudhir Mittal, J. (Oral)

The petitioner seeks quashing of order dated 27.11.2017 passed by learned Judicial Magistrate Ist Class, Ferozepur in CRM No.160/2015, dated 28.10.2015, titled as “**Puneet Sood Vs. Vijay Bhasker**”.

2. The bare necessary facts are that the petitioner was posted as Chief Executive Officer, Cantonment Board, Ferozepur Cantt. In June 2015, the Cantonment Board decided to file civil suit against the respondent in respect of a bungalow owned by him. The counsel for the Cantonment Board obtained the signature of the petitioner on the plaint as well as affidavit to be filed therewith. No date was mentioned therein as these papers were prepared during the summer vacations. The suit was filed on 22.07.2015 in which affidavit dated 17.07.2015 signed by the petitioner, was also present. By that date, the petitioner had been transferred to Delhi and was posted as Deputy Director General (CRD), Delhi

Cantt. The respondent moved an application under section 340 code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for prosecution of the petitioner for furnishing a false affidavit as on the date of the affidavit, the petitioner was not the Chief Executive Officer, Cantonment Board, Ferozepur Cantt. Vide impugned order, a show cause notice has been issued to the petitioner.

3. A perusal of section 340 Cr.P.C. shows that prior to the issuance of directions, preliminary enquiry has to be conducted by the concerned Court. Such a preliminary enquiry can be conducted only after issuance of show cause notice to the petitioner against whom a complaint has been made. Thus, the learned trial Court was not in error in issuing the show cause notice. The petitioner is at liberty to reply to the said show cause notice and convince the Court that no case is made out for proceeding further under section 340 Cr.P.C.

4. Thus, the petition is dismissed as being pre-mature. The petitioner would be at liberty to move an appropriate application for exemption from personal appearance, if the circumstances of the case so require.

April 18, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No