

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

CRM No.M-32726 of 2018 (O&M)

Date of Decision: August 01, 2018

Mandeep Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Pushpinder Kaushal, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of orders dated 19.07.2017, 18.07.2018 and 20.07.2018 passed by learned Special Judge, SAS Nagar, Mohali, vide which, the application filed by the petitioner under Section 91 Cr.P.C. as well as application for recalling the order dated 19.07.2017 has been dismissed etc.

I have heard learned counsel for the petitioner and have gone through the record.

The perusal of the record shows that FIR against the present petitioner has been registered under Section 13(1)(e) read with 13(2) of the Prevention of Corruption Act on 26.08.2015. The petitioner filed application before the Court for directing the prosecution to produce income chart for the period from 01.04.1998 to 31.03.2014 on the basis of which,

accused was asked to give his explanation, as stated in the investigation

report dated 09.07.2015. The Investigating Officer, Inspector Iqbal Singh, Vigilance Bureau, Economic Offences Wing-2, Punjab appeared in the trial Court and given his statement that no such income and expenditure chart was given to the applicant-petitioner to furnish his explanation on the basis of which, he submitted his reply on 14.05.2015 and as such, the Vigilance Bureau cannot produce the above-said chart. Learned Special Judge, Mohali, dismissed the application vide impugned order dated 19.07.2017 in view of the statement of the Investigating Officer and case was fixed for 01.08.2017 for arguments on charge.

After the dismissal of this application, again an application dated 01.08.2017 was filed by the present petitioner before the Court for recalling order dated 19.07.2017, which was also dismissed vide impugned order dated 18.07.2018. When the order has been passed by the Court dismissing the application, it cannot be recalled as per provisions of Section 362 Cr.P.C. The remedy, at that time, was to challenge that order in question, instead of filing the application for recalling the order.

Present petitioner again filed application under Section 91 Cr.P.C. for issuance of proper direction to the Vigilance Bureau to produce and supply copies of documents as fully detailed in the application. This application was also dismissed by discussing in detail, vide impugned order dated 20.07.2018.

The perusal of the record show that it is the grievance of the petitioner that copies of documents, which were relied upon or collected during investigation, were not supplied to him. He was earlier asking for income and expenditure chart, on the basis of which his reply was sought

such chart was given with the letter asking for explanation etc. and that order has not been challenged at that time. Rather, application for recalling the order has been filed. Now, again the petitioner has filed the application asking for direction to the Vigilance Bureau to supply copies of the documents etc., which they have collected during the investigation.

From the record, it looks that the only purpose of the present petitioner is to delay the proceedings of the case and not to allow the trial Court to proceed further with the case. Instead, petitioner is filing one application after another. It has been brought to the notice of this Court that in the first order, it was written that case is fixed for arguments on charge for 01.08.2017 but still after more than one year, no arguments have been addressed for framing of the charges or not against the accused. Even if it is taken that some record of the department is lying with the Vigilance Bureau, which has been collected during the investigation, at appropriate stage, the accused has right to inspect the record, if necessary, for the cross-examination of the witnesses. At this stage, at the time of framing of charge, these documents are not necessary. For that purpose, he can file an application at appropriate stage. Otherwise also, where the record is voluminous and relied upon by the prosecution in the report, then the accused has right to inspect the same but cannot ask for the supply of copies of such voluminous record. At the time of recording the prosecution evidence, if the Court would feel that inspection of that record is necessary, then the Court will consider the application as per law.

In view of the above discussion, I find that the impugned orders passed by the Court below are correct, as per law and do not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

Learned trial Court is directed to proceed with the trial as per law. If, again such type of application is filed by the petitioner, that may be decided by conducting day-to-day proceedings. Learned trial Court is further directed to send the report to this Court after three months regarding status of the case.

August 01, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No