

In the High Court of Punjab and Haryana at Chandigarh

CRM No.M-38272 of 2017 (O&M)

Date of Decision:- 19.7.2018

Pawan Goyal

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. J.S.Ahalawat, Advocate, for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. Vijay Pratap Singh, Advocate for
Mr. Nonish Kumar, Advocate for the complainant.

GURVINDER SINGH GILL J. (Oral)

CRM No.24548 of 2018

By way of filing this application, the petitioner seeks to place on record the application seeking exemption from personal appearance (Annexure A-1) and the order passed by learned JMIC, Karnal on 11.5.2018 as Annexure A-2.

In view of the reasons mentioned in the application, the same is allowed and the aforesaid documents are taken on record.

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The learned State counsel has filed status report by way of affidavit of Shri Baljinder Singh DSP, City, Karnal, which is taken on record.

The petitioner seeks quashing of FIR No.107 dated 5.4.2017 under Sections 406, 420, 506, 467, 468, 471 and 120-B IPC registered at Police Station Taraori, Karnal.

The learned counsel for the petitioner has submitted that initially only co-accused Sanjeev Gupta had been challaned and it was subsequently that supplementary challan was filed against the present petitioner Pawan Goyal. It has further been submitted that the trial Court is proceeding in a hurried manner and that prosecution witnesses have been summoned for 20.7.2018 whereas in fact charges have not been framed against the present petitioner so far. The learned counsel for the petitioner, in this context, has drawn the attention of this Court to order dated 14.3.2018 passed by learned JMIC and has contended that the trial Court is proceeding with a preconceived mind to frame charges against the petitioner.

I have considered the aforesaid submission. The relevant extract from order dated 14.3.2018 reads as follows :-

"Today notice to accused-persons received back with the report that the service could not be effected due to proximity of time. It is clear from the record that charge against accused Sanjeev and Pawan is to be framed, as the same could not be framed inadvertently on 03.02.2018. It is clear from the record that prima facie case against the accused Sanjeev and Pawan is made out. As such, it is clear that the witnesses of prosecution may be summoned for the same date, when the accused would be charge-sheeted. As such, matter is adjourned to 11.5.2018 for framing of charge against the accused-persons and for evidence of prosecution. Prosecution is directed to lead the evidence on the next date of hearing.

Witnesses at serial no.1 to 5 be summoned for the date fixed."

The aforesaid order cannot be said to be an order passed while considering the question regarding framing of charges. Before the trial Court proceeds to frame charges, an opportunity of hearing needs to be given to the accused and he should be heard before the Court reaches at a conclusion as to whether the case/evidence collected during investigation warrants framing of charges or not.

The petition is disposed of with a direction to the trial Court to pass a speaking order after giving an opportunity of hearing to the petitioner Pawan Goyal to consider framing of the charges. The petitioner would be at liberty to raise all points at the stage of consideration of framing of charges.

The petition stands disposed of with the aforesaid directions.

19.7.2018
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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No