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IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CRR NO.2026 OF 2011(O&M)

Date of Decision: 11.12.2018

State of Haryana

.....Petitioner

versus

Krishan Chander Bangar and others

.....Respondents

CORAM HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present Mr.Kuldeep Tiwari, Addl. AG, Haryana.
Mr. N.S.Shekhawat, Advocate for respondents no.1 and 7 to 9.
Mr.Amandeep Singh, Advocate for respondents no.2 to 6.

MAHABIR SINGH SINDHU, J(ORAL)

Present petition has been filed against the impugned order dated 14.06.2011, passed by learned Additional Sessions Judge, Rohtak while setting aside the order dated 08.09.2010 passed by learned Judicial Magistrate Ist Class, Rohtak vide which charges were framed against the respondents under Sections 420/468/471 and 120-B IPC.

This Court while issuing notice of motion on 05.09.2011 passed the following order:-

“The petitioner has impugned the order dated 14.06.2011 vide which the Revisional Court while accepting the revision petition preferred by the respondents, who are facing accusations for having violated the provisions of Sections 420/468/471/120-B IPC, has observed that only the Courts at Karnal or Panchkula would have the jurisdiction, and set aside the order charge sheeting the respondents/accused and directed the learned trial Court to return the challan to the SHO of the concerned police station for its presentation before the Court of competent jurisdiction.

Vide the impugned order the learned Court reasoned that there is no evidence on file to show that the application form, which was a document borne out of the forgery, was sent from Rohtak. This was as against the case of the petitioner that the copy of the application form was attested at Rohtak and thus the provisions of Section 178 Cr.P.C would be attracted. The facts of the case are that the respondents are facing allegations of impropriety in the grant of public appointment on the basis of forged and fabricated documents. The proceedings were initiated at Rohtak and the learned trial Court had framed the charges whereupon a revision petition had been preferred impugning the order of charge upon which the impugned order has been passed with the directions which have been noticed in the foregoing paragraph. The Revisional Court has not commented upon the merits of the case i.e whether the charge was framed against the respondents appropriately even though it seems to be their primary grievance. It took upon itself the task of examining whether the learned trial Court had jurisdiction to entertain the matter or not.

I am of the considered opinion that prima facie it appears that the Court of Revision was in error. The sequence of events originated from the birth of a document as a result of forgery, its attestation and its submission before the competent authority resulting in an assignment which otherwise was not deserved, as the crux of the accusations against the respondents.

Section 178 of the Code of Criminal Procedure deals specifically with a situation of the kind and, therefore, it seems that the learned trial Court had rightly appreciated the provisions of the said section, but the Court of Revision commented upon the material in a manner which it ought not to have, to prejudice the case of the petitioner, as at this stage when the proceedings were initiated against it, it was

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to prima facie see whether the charge against the respondents had been framed appropriately or not. In the given set of circumstances, when the sequence of events reflected a chain, which was partly executed at different places, it was not proper for it to comment upon the issue of jurisdiction as conclusively as it has done.

Noticing that the petitioner has a prima facie case in its favour, issue notice of motion for 12.10.2011.

In the meantime, the operation of the impugned order shall remain stayed.”

Today during the course of hearing, both sides have agreed that in view of the provisions of Section 178 Cr.P.C, trial can continue at Rohtak and they have no objection to that effect. Parties further conceded that since order dated 08.09.2010 passed by learned JMIC, Rohtak has already been set aside, therefore, let the matter be considered afresh.

In view of the agreed stand taken by both the parties, impugned order is set aside and the matter is remanded back to learned trial Court to proceed further right from the stage of consideration of the framing of the charges according to law. Needless to say that the respondents would also be at liberty to raise all their pleas available under law before learned trial Court.

Disposed off in the above terms.

The observations quoted/made hereinabove may not be construed as an expression of opinion on the merits of the case.

11.12.2018
mamta

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No