

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

**CRL. MISC.No.M-9119 OF 2015 (O&M)
DATE OF DECISION : 19th JANUARY, 2018**

Surjit Singh

.... Petitioner

Versus

State of Punjab & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Surjit Singh Sodhi, Advocate for the petitioner.

Mr. H. S. Sullar, Deputy Advocate General, Punjab.

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A. B. CHAUDHARI, J. (Oral)

Heard learned counsel for the rival parties.

Learned counsel for the petitioner vehemently argued that four times the investigating agency has submitted 'untraced report' before the learned trial Court and every time the learned trial Court declined to accept the same. He submitted that this is the matter of 2006 and therefore, the delay has caused adverse impact on the case of the petitioner. He submitted that his client is innocent which is clear from the fact that the four cancellation reports were filed by the Vigilance Bureau. This Court had made an order on 20.03.2015, which reads thus:

“Contents that the police has submitted
untraced report four times but the same has been
repeatedly rejected by the Special Court. Further
contents that in terms of the judgment in *Harinder*

Pal Singh v. State of Punjab 2004(2) RCR (Criminal) 307 the court could have in such an eventuality fallen back on the provisions of Section 191(1)(c) of Cr. P. C. and cannot order reinvestigation repeatedly.

Notice of motion for 11.8.2015.

In the meantime proceedings before the court shall remain stayed. This shall, however, not debar the Court to take recourse to the proceedings under Section 191(1)(c) Cr. P. C.”

It is clear from the above order that the proceedings before the trial Court have been stayed but there is a clarification that recourse to the proceedings under Section 191(1)(c) Cr. P. C. was not prohibited.

The present case remained pending in this Court but there was no stay order for filing of the challan. As such on 07.12.2017 the State counsel made a statement that the challan has been filed. In that view of the matter, since the challan has been filed and there was no stay order from filing the challan, *inter alia*, I think the proper course for the petitioner would be to apply for discharge before the Court where the challan has been filed. Since the matter relates to the year 2006 it is expected of the trial Court to dispose of the discharge application on filing on its own merits upon considering the grounds raised by the petitioner, if any, and pass a reasoned order.

The present petition is disposed of with liberty to the petitioner to file discharge application before the trial Court. The

discharge application be disposed of within a period of four months from the date of its filing.

All the points raised herein are kept open for being raised before the trial Court.

19TH DECEMBER, 2017
‘raj’

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>