

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

110

CRR No.924 of 2018 (O&M)

Date of decision:9.3.2018

Ved Prakash

... Petitioner

versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Akshay Bhan, Sr.Advocate, with
Mr.Gurinder Singh, Advocate,
for the petitioner

...

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner has challenged the charge framed against him by the learned trial Court (JMIC, Gurugram) on 11.1.2018, by which he has been arraigned as an accused for the commission of an offence punishable under Section 506 IPC, the allegation being that he had threatened the complainant over the phone, the complainant being his brother with 'large' litigation pending between the two.

Mr.Bhan, learned Senior Counsel appearing for the petitioner, submits that the charge has been framed essentially on account of the fact that when the petitioner had earlier approached this Court by way of CRM No.M-36095 of 2012, seeking quashing of the FIR itself, some observations had been made by this Court which have been reproduced in the impugned order framing the charge, to the following effect:-

“There is nothing to infer that the allegations in the FIR are absurd or inherently improbable on the basis of which no

prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused. The call details, which form part of the challan, show that the petitioner had made about six minutes call to respondent no.2-complainant on the relevant date. As to whether statement of complainant in support of his allegations has been in corroboration or is reliable, is a fact to be seen by the trial Court on the basis of evidence produced before it.”

Thus, learned Senior Counsel submits that there was no independent application of mind by the learned trial Court and the charge has been framed only because of the observations made by this Court while dismissing the aforesaid petition.

Having considered the aforesaid argument, it is seen that prior to noticing the aforesaid observations of this Court, the learned trial Court has also observed that at the stage of framing of the charge it is not to be seen as to whether the accused would be eventually convicted or not, but whether prima facie the accusations disclose the commission of the offence alleged, on “general consideration of the materials” placed before the Court by the investigating officer.

The Court therefore having come to a prima facie conclusion on the basis of such material, that the offence against the accused may have been made out, has framed the charge.

This Court would not interfere in that opinion of the trial Court at this stage; and therefore disposes of this petition with a direction to the trial Court that any observations made by this Court while dismissing CRM No.M-36095 of 2012, will be taken to be in the context of the petition seeking quashing of the FIR registered against the petitioner, especially as it

had already been said in that order itself that the truth of the statement (allegations) of the complainant, would be a fact to be seen by the trial court on the basis of the evidence produced before it.

Therefore, as regards the merits of the allegations of the complainant, the trial court would decide the case not on the basis of any observations made by this Court in the context of dismissing a petition seeking quashing of the FIR, but naturally, solely on the basis of the evidence led before that Court.

9.3.2018
pk/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No