

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

Sr. No.123

CRM-M-4180 of 2019

DECIDED ON: January 29, 2019

HARBHAJAN SINGH

..PETITIONER

VERSUS

NIRMAL SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. B.D. Sharma, Advocate, for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioner is the complainant in a private complaint titled as *Harbhajan Singh Vs. Nirmal Singh & ors.* In respect of the same incident, an FIR No.118, dated 22.06.2012 was also registered under Sections 452, 326, 323, 148 & 149 IPC at Police Station Jandiala, District Amritsar. The two cases were going on in two different Courts and thus, an application was filed by the accused for transferring the cases to one and the same Court. Vide order dated 26.09.2018, the learned Chief Judicial Magistrate, Amritsar transferred the State case to the Court of Sh. Manu Mittu, Judicial Magistrate 1st Class, Amritsar, where the complaint case was being tried. It appears that the file of the complaint case was lost meanwhile and vide impugned order dated 15.10.2018 (P-4), Sh. Manu Mittu, Judicial Magistrate 1st Class, Amritsar, has decided to proceed with the trial of the State case as reconstruction of the file of the complaint case may take some time.

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Learned counsel for the petitioner submits that if the trial in the State case is concluded, the interest of the complainant would be adversely effected. Thus, the impugned order dated 15.10.2018 (P-4) may be set aside and the trial Court be directed to await the reconstruction of the file of the complaint case before proceeding further.

The argument of the learned counsel for the petitioner cannot be accepted because Section 210 Code of Criminal Procedure, 1973 (for short Cr.P.C.) provides that while trying a complaint case, if it comes to the notice of the Magistrate concerned that an FIR has been registered in respect of the same incident, he shall stay the proceedings in the complaint case to await the final report under Section 173 Cr.P.C. in the FIR. On receipt of the final report under Section 173 Cr.P.C., the trial will be clubbed and proceedings will be conducted in the State case alone. Presently, it appears that the file of the complaint case has been misplaced and therefore, the trial Court is proceeding with the State case. Even if the file of the complaint case had not been misplaced, the trial would have progressed in the State case only and thus, there is no legal infirmity in the impugned order.

The petition is thus dismissed. However, the trial Magistrate concerned is directed to ensure that the person responsible for loss of the file of the complaint case, is brought to book at an early date. A report in this regard be submitted within four weeks from today.

January 29, 2019

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No