

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-11777 of 2017 (O&M)
Date of decision : May 01, 2019

Dr. Pyara Lal Garg

....Petitioner

versus

State of Punjab and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ashok Sharma Nabhewala, Advocate, for the
petitioner

Mr. Avtar Singh Sandhu, Addl. AG Punjab for the State/
respondents no. 1 to 3

Mr. Shiv Kumar, Advocate, for respondent nos. 4 to 9

Fateh Deep Singh, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been preferred by petitioner seeking quashment of orders dated 5.12.2016 (Annexure P/13) and dated 4.3.2017 (Annexure P/15) detailed in the head note of the petition which need not be reproduced here which was brought about during trial of case got earlier registered by way of FIR No. 72 dated 8.4.2012 under

Sections 306/34, 380 IPC, pertaining to Police Station Patran, District Patiala.

Heard Mr. Ashok Sharma Nabhewala, Advocate, for the petitioner; Mr. Avtar Singh Sandhu, Addl. AG Punjab for the State/respondents no. 1 to 3; Mr. Shiv Kumar, Advocate, for respondent nos. 4 to 9 and perused the records.

The present case was got registered on the complaint of the present petitioner who happens to be the brother of the deceased Moorti Devi then aged around 80 years at the time of her mysterious death. The private respondents happens to be family of her in-laws including husband. During the pendency of the case various petitions have come about in which different directions were got issued. In one of the Civil Writ Petition bearing No. 26089 of 2015, Annexure P/11, this Court vide order dated 17.12.2015 disposed of the petition of the then present petitioner which is reproduced as below:-

“After arguing for some time and after being made aware of the judgment of the Hon'ble Supreme Court in ***Sudipta Lenka v. State of Odisha and others, 2014(11) SCC 527***, learned counsel for the petitioner wants to withdraw this petition with liberty to move appropriate application before the Court,

where the challan has been presented, for further investigation.

Dismissed as withdrawn with aforesaid liberty. In case the application is moved, same shall be decided in accordance with law.”

In consequence of which an application was moved before the learned Additional Sessions Judge, Patiala, Annexure P/12 seeking prayer of reinvestigation/further directions into the matter in respect of this FIR in the light of the orders of this Court. It is worth-while to refer here that in Civil Writ Petition bearing No. 5193 of 2013, Annexure P/9, this Court had vide orders dated 14.10.2014 had uphold the earlier orders/directions of this Court constituting a Special Investigating Team and thus dismissed the civil writ petition vide aforesaid orders. The observations of this Court in para no. 5 of this order are essential to be reproduced and which are as follows:-

“5. I am afraid I cannot allow for the luxury for the petitioner to be idle at home and merely whine away, and requiring the whole world to spin around him for what he believes to be no fair investigation. He has a duty to bring to light to what is credible and what, according to him, is true. If he places his own personal comforts above law, there is nothing

that can be done by this court. I find no help is possible for undertaking a fresh investigation if the petitioner expects the police to arrive at his doorstep and take orders from him. Courts are not without the power to alter the charge if appropriate evidence is given. Section 216 of the Criminal Procedure Code provides that any court may alter or add any charge before judgment is pronounced. The court shall follow usual procedure of what is detailed under Sections 216 and 217 if there are grounds made for such alteration. In this case, I am satisfied that the court's directions earlier led to of setting up SIT on whose assistance through additional report trial court has proceeded. There are no materials for entrusting the matter for fresh investigation.”

Thus from this all it is quite evident that the petitioner for obvious reasons is at pains with everyone around him even though that element might be acting with all judicial fairness and it was during the course of the trial the court of learned Additional Sessions Judge, Patiala had dismissed two applications dated 14.8.2015 and 4.1.2016 of the present petitioner for which an application for restoration of these applications was brought about and which was

disposed of by the said court vide orders dated 4.3.2017 and made the following observations :-

“5. As is transpired from the file, vide order dated 5.12.2016 both the applications dated 14.8.2015 and 4.1.2016 were disposed of as not pressed. On that very day, the file was taken up twice as on the first occasion, the learned counsel for complainant was stated to be busy in some other court. Even in the after lunch session, he was stated to have remained busy throughout the day. Accordingly, the applications were disposed of as not pressed with the observation that the case was already delayed much due to the pendency of these applications. Further, the trial was ordered to be initiated from the stage where it was at the time of moving of the applications. No doubt, there are exemption applications moved by the accused Amar Nath on various occasions. Also, the case had to be adjourned some times due to the fact that the court remained busy in conducting other trials. But, even the counsel for complainant made requests for adjournment.

Be that as it may, the court is to manage the cause list everyday as it is mainly dealing with the Session Trials and all the matters including the one in hand are equally important for the court. One another aspect which the complainant/applicant has touched in the application for restoration that he has to pursue the case despite his poor health and wait for his turn. It does not lie in the mouth of the complainant in this case or any of the litigants that the court adjourned the matter as it remained busy in conducting trial of other cases. Though this court is not inclined to delve deep into the matter of manner in which the applicant has addressed the matter, but most of his averments in the application seem to be contemptuous in nature. The court is already occupied with more creative work than to take action in such like matters.

Last but not the least, restoration of the application dismissed as not pressed amounts to review its own order by the court which is not permissible in the criminal jurisprudence. The applicant has failed to mention as to under which

provision this application is maintainable.

Accordingly, the application being sans merits as well as maintainability is hereby dismissed.”

This further illustrates the psyche of the applicant-petitioner and the amount of annoyance of the court which he has got attracted by his own intentional acts rather than making genuine and bonafide prayer seeking redressal of his grievance. The petitioner appears to be more bent upon annoying and trying to satisfy his sadistic pleasure and rather than pursuing his judicial goals. Though counsel for the other side has sought to highlight various interim orders passed by the trial court highlighting how present petitioner is trying to act as a speed breaker in the smooth running of the trial and that is what has complicated the matter and which is further apparently aggravated by the insolence shown by his counsel before the trial court in not carrying on with his duties and functions and rather skipping from the same. Without feeling the necessity to advert on to the merits of the impugned orders and the relief being sought by the petitioner, it would meet the ends of justice if the trial court is directed to dispose of the application of the present petitioner Annexure P/12 by affording a reasonable opportunity to the two sides by speaking order. It needs to be ensured that the said application shall be disposed of without adjourning the matter for this purpose on

the same day when the parties are directed to put in appearance before the trial court. However for undoing the inconvenience to the judicial system and the un-necessary burden that has been caused to the State, it would be suffice if the present petition is allowed subject to payment of Rs 10,000/- to be deposited with District Legal Services Authority, Patiala. The parties through their counsel are directed to appear before the trial court on 1.7.2019 on which date the application shall be disposed of.

In the light of the aforesaid, the present petition stands disposed of.

May 01, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No