

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM- M-16251-2018

Date of Decision: 18.12.2019

Satwinder Pal Singh Arora

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Jagmohan Bansal, Advocate,
for the petitioner.

Mr. A.P.S. Gill, D.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner seeks quashing of the order dated 05.05.2018, passed by the learned Additional Sessions Judge, Ludhiana (copy Annexure P-7) and the order dated 19.04.2017 passed by the learned Judicial Magistrate Ist Class, Ludhiana (copy Annexure P-5), whereby his application filed under Section 239 of the Cr.P.C. has been dismissed.

Pursuant to the order dated 10.12.2019, the Persian text on the envelope stated to have been sent to the address of the respondent in Kabul, has been translated as follows:-

“Karte Char Dr. Fateh Noor”.

Learned State counsel submits that what he has determined from teachers of Persian, is that the translation reads to be that service (of the notice issued) has actually been effected upon the respondent.

Hence, obviously service of notice issued in this petition has been

effected on respondent no. 3, but he is not putting in an appearance. In the opinion of this Court, as regards proceedings before the trial Court, it is considered appropriate in such a situation, that the trial may be now allowed to proceed, to the extent possible in the absence of the complainant, but with a direction that till the complainant in the FIR does not put in an appearance before that Court, the personal presence of the petitioner before that Court shall remain exempted.

Ordered accordingly, with the interim order 20.04.2018, hereby vacated.

However, as regards the challenge to the impugned orders, I see no reason to interfere with the said orders, the learned trial court having expressed its opinion, prima facie, that a case was made out against the petitioner and therefore the application under Section 239 of the Cr.P.C. merits dismissal, with that order having been upheld by the revisional court (the learned Additional Sessions Judge, Ludhiana), with that court further opining that it was not sitting in appeal over the order of the trial court.

The petition is disposed of.

December 18, 2019
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.