

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-933-2019(O&M)

Date of Order:23.07.2019

Baljit Singh

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.S.Brar, Advocate, for the petitioner.

Ms. Rajni Gupta, Sr. DAG, Punjab.

Mr. P.S.Ahluwalia, Advocate, for respondent no.2.

Mr. M.S.Bath, Advocate, for respondent nos.3,4,5, and 7.

ANIL KSHETARPAL, J(Oral)

Challenge in this present petition is to order framing charge followed by the chargesheet. The order framing charge, dated 11.03.2019, reads as under:-

“Heard on charge. In view of the contents of report under Section 173 Cr.P.C and finding a prima facie case, accused is charged for the offence punishable under Sections 148, 325 etc. IPC Act to which they pleaded not guilty and claimed trial. Let PW's be summoned for 10.04.2019. Insp. SHO PS City, submitted supplementary challan under Section 173(8) Cr.P.C. which is taken on record. Consideration on supplementary challan shall also be heard on date fixed.”

It is apparent from the reading of the aforesaid order that while order framing charge was passed, the court did not consider supplementary challan filed under Section 173(8) Cr.P.C.

The procedure adopted by the court was erroneous. Hon'ble Supreme Court in the case of *Vinay Tyagi vs. Irshad Ali @ Deepak and others, (2013) 4 SCC (CrL) 557* has held that once there are two reports under Section 173 Cr.P.C., submitted by the Investigating Agency, both the reports have to be read conjointly and cumulative effect thereof is to be considered along with the documents attached thereto and thereafter the Court has to apply its mind to determine whether there exist grounds to presume that the accused has committed the offence or not?

In view of the aforesaid position, the order framing charge followed by chargesheet is set aside. The learned trial court is requested to pass a fresh order after considering both the reports along with the documents produced on file, within one month from the date of receipt of the certified copy of this order.

Disposed of accordingly.

July 23, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No