

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

CRM-M-18468-2019 (O&M)
Date of decision : 23.07.2019

Sarabjit Singh alias Lalli

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mansur Ali, Advocate and
Mr. Imran A. Ali, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

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

ANIL KSHETARPAL, J. (ORAL)

Present petition has been filed with number of prayers, however, during the course of arguments, learned counsel for the petitioner has limited his prayer to set aside the order dated 11.03.2019 i.e. order framing charge and chargesheet. Order 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 382, 336, 323 etc. IPC Act to which they pleaded not guilty and claimed trial. Let PW's be summoned for 10.04.2019.”

It is undisputed that chargesheet has been framed under Section 307 IPC. A reading of the order framing charge does not even show that the Court was conscious of the fact that the chargesheet is being framed under Section 307. What is more disturbing is that the learned Judge who is a member of Superior Judicial Service has not even cared to notice all the provisions/offence of IPC against which he has decided to frame charge.

Learned counsels appearing for the parties have assisted this Court with regard to the requirement of speaking order while ordering framing of charge. There is no dispute about the aforesaid fact. However, framing charge against the accused is serious matter. Thereafter, trial starts. It is at the stage of ordering framing of the charge, counsels for the accused are heard for the first time. The order passed by the trial Court deciding to frame charge is required to show application of judicial mind. The order may not be required to be in detail, however, a reading of the order must reflect application of judicial mind.

Learned counsel for the petitioner-accused has submitted that the lengthy arguments were addressed at the stage of framing charge.

Normally, the Court does not interfere in the order framing charge, however, in this case, a reading of the order reproduced above leaves no doubt that the order is result of non-application of mind.

Today itself, in a connected case bearing CRR No.933 of 2019, this Court has found a similar order passed in connected case in which same learned Presiding Judge framed charge even after noticing

that the supplementary report has been submitted, but failed to consider the supplementary final report.

Keeping in view the totality of the facts, order framing charge dated 11.03.2019 and subsequent chargesheet is quashed.

Learned Presiding Judge is requested to rehear the arguments and pass fresh order within a period of one month.

In view of what has been observed above, the present petition is disposed of.

23.07.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No