

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

CRM-M-12160-2013 (O&M)

Date of decision: 03.03.2020

Inderpal Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

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

Mr. Kuldeep Sharma, DAG, Haryana.

Mr. Subhash Godara, Advocate
for respondents No.2 to 5.

H.S. MADAAN, J. (Oral)

The trial Court of JMIC, Kurukshetra, vide order dated 11.08.2012 had framed formal charge for offences under Sections 463, 465, 467, 468, 472, 473 and 120-B IPC against Swaran Singh @ Sarni, Ganga nand, Dina Nath and Hawa Singh; all of them being accused in FIR No.412 dated 31.10.2001, registered with Police Station Shahbad.

Feeling aggrieved, the petitioners/accused had challenged that order before learned Sessions Judge, Kurukshetra by way of filing a revision petition. That revision petition was accepted by learned Sessions Judge, Kurukshetra, vide order dated 24.01.2013. Resultantly, the order passed by the Trial Magistrate with regard to framing charge against the accused was set aside and the revisionists/accused were discharged.

The said order was challenged by the complainant before this Court by filing the instant petition, notice thereof was given to the State and respondents/accused, who have put in appearance.

I have heard learned counsel for the parties besides going through the record.

The operative part of the impugned order for ready reference is reproduced as under:-

“From the facts and circumstances of the case, this Court has reached the conclusion that here is the case which does not show prima-facie that accused-revisionist had committed the offences as attributed to them. The argument of the learned Public Prosecutor that the complainant could say something and the Investigating officer had come out with a different version has not cut much ice with this Court. After all, the case of the prosecution has to be proved by the witnesses examined by the prosecution during the course of trial and it is not the case where there is likelihood of the case ending in conviction. Saddling the accused revisionists with protracted criminal trial is not something, which should be done merely at the asking and Court has to be satisfied about prima-facie commission of the offences.”

A perusal thereof goes to show that learned Sessions Judge, Kurukshetra has observed that there was no likelihood of the case ending in conviction and in para No.15, he has relied upon judgment **Satish Mehra Vs. Delhi Administration, 1996 (93) SCC 85** to the effect that when judgment is certain that there is no prospect of case ending in conviction, valuable time of the Court should not be wasted for holding a

trial only for the purpose of formally completing procedure to pronounce conclusion on a future date. On the face of it, this reasoning is not convincing and appropriate and the order is not sustainable. For the purpose of framing charge, the Court is to see whether prima facie case is made out against the accused or not and the charge can be framed on the basis of strong suspicion even. Learned Sessions Judge, Kurukshetra clearly fell in error in observing that there should be likelihood of the case ending in conviction of the accused for the purpose of framing charge. Furthermore, as pointed out by learned counsel for the petitioner, the judgment relied upon by learned Sessions Judge, Kurukshetra Satish Mehra (supra) has since been overruled by the Apex Court in judgment **State of Orissa Vs. Debendra Nath Padhi, 2005 (1) RCR (Criminal) 297.**

Under the circumstances, the impugned order cannot stand on judicial scrutiny, since it has resulted in miscarriage of justice. Therefore, the present petition is accepted; the impugned order is set aside and the matter is remanded to learned Sessions Judge, Kurukshetra for deciding the revision petition afresh after hearing learned counsel for the parties in the light of the latest law on the subject. The parties through counsel are directed to appear there on 25.03.2020.

03.03.2020

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**(H.S. MADAAN)
JUDGE**

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No