

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.11627 of 2019

Date of Decision: January 08, 2020

Raj Kumar

...Petitioner

Versus

Amit & others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sajjan Singh, Advocate,
for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of Revisional Court order dated 07.01.2015 (Annexure P-2), whereby the order of discharge dated 08.12.2017 (Annexure P-1) passed by the trial Court in criminal complaint No.94 dated 29.04.2015, was upheld.

Learned counsel for the petitioner contends that the petitioner-complainant filed a criminal complaint for commission of offences punishable under Sections 392, 323, 506 and 34 IPC against the accused persons. After leading preliminary evidence, respondents were summoned in the said complaint case for commission of offences mentioned above. Thereafter, pre-charge evidence was led, however, the trial Court without considering the evidence on record discharged the accused persons. According to him, the Revisional Court refused to interfere with the order and erroneously proceeded to uphold the said order. It is pointed out that the convincing material was placed in the shape of evidence and, therefore, it was a fit case for framing of charges and the impugned order deserves to be

set-aside.

After hearing the learned counsel for the petitioner, this Court is of the opinion that the petition is liable to be dismissed as the impugned orders are based upon correct appreciation of material on record and a possible view has been adopted. The contention of the petitioner that he had identified the respondents from the photographs and railway tickets which fell down from the pocket of the accused is not worth believing. It is the admitted position on record that neither the complainant nor another witness had seen the faces of the accused persons. Petitioner failed to prove the identity of the respondents by leading cogent and convincing evidence. It may be added here that no name or other particulars were mentioned on the railway tickets, which may even remotely connect the respondents with the alleged crime. The stand of the complainant that Parmanand and Chattar Singh were present on the spot may not inspire confidence as there is nothing on record to indicate that any attempt was made by the said eye witnesses to intervene when the alleged occurrence took place.

It is settled law that if two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Court will be empowered to discharge the accused and at this stage, Court is not to see whether the trial will end in conviction or acquittal.

In **“Central Bureau of Investigation, Hyderabad Vs. K.Narayana Rao” 2012 (4) R.C.R.(Criminal) 601**, Hon'ble the Supreme Court has held as under:-

“11) 11. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. In other words, the sufficiency of ground would take within its fold the

nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him.”

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Exercise of jurisdiction under Sections 227 and 228 Criminal Procedure Code 21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of

offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

The perusal of the impugned judgment passed by the Revisional Court reveals that the entire relevant material on record has been considered carefully while upholding the order of discharge passed by the trial court. It is specifically observed that the trial Court has rightly discharged the accused and the said order does not suffer from any illegality and impropriety.

In view of the above, this Court does not find any reason to exercise inherent powers under Section 482 Cr.P.C. Resultantly, the petition is dismissed.

January 08, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No