

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

**CRR No.310 of 2017(O&M)
Date of Decision-27.05.2020**

Karamjit Singh Bhullar ... Petitioner

Versus

State of Punjab ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. R.K. Thind, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the order dated 21.11.2016 passed by Additional Sessions Judge, Kapurthala and resultant charge-sheet of the even date, vide which charges were framed against the petitioner in case bearing FIR No.180 dated 30.07.2015 registered under Sections 384, 506 IPC, Sections 27-A, 59(2) of NDPS Act and Sections 7, 13(2) of the Prevention of Corruption Act at Police Station Kotwali, Kapurthala.

[2]. Vide the aforesaid order and the charge-sheet, the petitioner was charge-sheeted for the aforesaid offences by alleging that on or before 06.07.2015 in the area of Modern Jail, Jalandhar at Kapurthala, the petitioner intentionally put the under-trials/prisoners namely Ravi Shankar, Sukhdev Singh @ Bhutto, Sukhvinder Singh, Amarbir Singh Bajwa, Jaskaran Singh Kalsi, Harsh Gosain, Raju

Singh, Chander Dhir and Simaranjit Singh in fear of harsh duty and dishonestly induced them under that fear to deliver money to the petitioner and thus committed offence of extortion punishable under Section 384 IPC. Secondly, on the same date, time and place, the petitioner committed the offence of criminal intimidation by threatening the under-trials/prisoners in the said context and thus committed an offence under Section 506 IPC. Thirdly, on the same date, time and place, the petitioner indulged in financing directly or indirectly the activities of selling narcotics and harbored the under-trials/prisoners namely Rajesh Pandit, Kuldeep Manak etc for selling narcotics and engaged them in such activities and thus committed an offence under Section 27-A of NDPS Act. Fourthly, on the same date, time and place, the petitioner being the public servant/officer of jail was given custody of the under-trials/prisoners and he willfully aided in selling of intoxicant substance through under-trials/prisoners to other under-trials/prisoners and as such, violated the provisions under Section 59(2) of NDPS Act and thus committed an offence punishable under Section 59(2) of NDPS Act. Fifthly, on the same date, time and place, the petitioner being the public servant, accepted or agreed to accept from the under-trials/prisoners for himself or for any other person, gratification other than legal remuneration as a motive or reward for doing any official act to show favour or dis-favour to under-trials/prisoners in custody to render service or dis-service to them and thus committed an offence under Section 7 of the Prevention of Corruption Act. Sixthly,

on the same date, time and place, the petitioner being the public servant committed criminal misconduct by selling narcotics through under-trials/prisoners namely Rajesh Pandit, Kuldeep Manak etc and thus committed an offence under Section 13(2) of the Prevention of Corruption Act.

[3]. FIR in question was registered on 30.07.2015 in Police Station Kotwali Kapurthala, District Kapurthala on the basis of verification and report submitted by Lakhwinder Singh Jakhar, DIG Jails-cum-Chief Vigilance Officer, Jail Department, Punjab, Chandigarh. The verification report was done in the context of memo No.20437/C dated 10.07.2015 issued by S.S.P, Kaputhala, vide which allegations were made against the petitioner, who was working as Assistant Superintendent in the jail. The allegations were in respect of extorting money from the inmates and for supply of intoxicants inside the jail. Lakhwinder Singh Jakhar, DIG Jails-cum-Chief Vigilance Officer was assigned the duty to verify the allegations leveled against the petitioner in the report of S.S.P, Kaputhala. Lakhwinder Singh Jakhar, DIG Jails-cum-Chief Vigilance Officer visited the jail premises on 19.07.2015, where inmates namely Ravi Shankar, Sukhdev Singh Bhutto, Sukhvinder Singh, Amardeep Singh Bajwa, Jaskaran Singh Kalsi, Harsh Gosain, Raju Singh, Chander Dhir and Simaranjit Singh made their statements before him.

[4]. Ravi Shankar alleged that he was confined in jail since 2012 and had a good business in the city. He had an agency of CF tyres and was enjoying good financial condition. He was serving the sentence in a disciplined manner, but the petitioner used to extort money from him under the threat of ill-treatment. At that time, Ravi Shankar was in judicial custody and wanted to pass his time peacefully, therefore, he did not make any complaint. However, later on, he was convicted and his financial position also became poor, therefore, he made a statement before the officer. Sukhdev Singh Bhutto alleged that he was confined in jail since 22.04.2008. He saw the petitioner supplying drugs himself. Petitioner used to supply drugs to Rajesh Pandit, Harvinder Jammu, Baba and Lakhi Bhullar and they used to sell the drugs further and gave cash to the petitioner. The aforesaid inmates used to threaten other inmates and other inmates used to keep silent. Sukhvinder Singh alleged that he was in custody since 2014 and used to consume intoxicants before coming to jail. In the jail premises, he used to procure intoxicants from Lakhi Bhullar by paying Rs.300/- for one bit. Lakhi Bhullar used to sell intoxicants openly and the petitioner used to supply the same to him. He was brought before the petitioner by Lakhi Bhullar to enter into the sale of intoxicants. Petitioner had engaged him. Sukhvinder Singh further alleged that now he has stopped taking drugs and then made the statement. Amardeep Singh Bajwa, Jaskaran Singh Kalsi and Harsh Gosain alleged that they were undergoing sentence for the past two years. Petitioner

used to call them in his office and threatened them in the context of fixing their duties from guard to that of kitchen and under that threat, the petitioner used to charge money from them. Petitioner had also taken an amount of Rs.1,50,000/- under the threat of changing their barracks. He demanded Rs.10,000/- for putting them in the new barrack and fixing their duties at the right places. On their refusal to make payment, they were harassed by the petitioner. Raju Singh alleged that he was confined in jail since 2010. He had remained clerk in the office of the petitioner for more than a year. Rajesh Pandit and Harvinder Jammu used to deal with the money transactions in the office of the petitioner and he had witnessed the same. Rajesh Pandit was very near to the petitioner and worked in the jail canteen and used to sell drugs. Chander Dhir stated that he was in custody since 2011 and was serving sentence of seven years. Rajesh Pandit used to work in the jail canteen and also used to sell drugs inside the jail. He had witnessed Rajesh Pandit selling the drugs inside the jail a number of times. Since he was under the orders of the petitioner, therefore, he had not made any complaint. Rajesh Pandit used to declare openly that he was selling the stuff of the petitioner and nobody could dare him. Simaranjit Singh stated before the officer that he and his father Amar Jit Singh were in jail since 21.04.2011. His father was not keeping well and generally, he was to be taken to P.G.I for treatment. He and his father were being harassed by the petitioner and the petitioner used to take money from them frequently and he used to fulfill the demand of the

petitioner after taking money from his home and from the friends. He further alleged that the petitioner used to sell drugs inside the jail premises on large scale. The deal was done inside the jail premises through Parwana, Rajesh Pandit and Kuldeep Manak and the petitioner used to take money from them every month.

[5]. After recording the statements of the aforesaid inmates, Lakhwinder Singh Jakhar, DIG Jails-cum-Chief Vigilance Officer verified the allegations leveled against the petitioner and also got secret information from other employees as to the complicity of the petitioner in selling the drugs inside the jail and had strong links with the drug dealers. Lakhwinder Singh Jakhar, DIG Jails-cum-Chief Vigilance Officer wrote to S.S.P Kapurthala, office of Additional Director General of Police, Jails, Punjab on the subject of verification report central jail with reference to memo No.20437/C dated 10.07.2015 and consequently, FIR was registered against the petitioner under the signature of Additional Director General of Police, Jails, Punjab, Chandigarh. The extract of aforesaid was sent to Director Bureau of Investigations, Punjab, Punjab Police Head Quarter, Sector-9, Chandigarh for information and action. The legal opinion of DA (L) was also obtained who had given opinion that a *prima facie* case involving offences under Sections 384, 506 IPC, Sections 3(1), 13(2) of Prevention of Corruption Act and Sections 27-A, 59(2) of NDPS Act was made out against the petitioner. Consequently, FIR No.180 dated 30.07.2015 under Sections 384, 506 IPC, Sections 3(1), 13(2) of Prevention of Corruption Act and

Sections 27-A, 59(2) of NDPS Act came to be registered in Police Station Kotwali, Kapurthala.

[6]. Report under Section 173 Cr.P.C was submitted by S.H.O, Police Station, Kapurthala on 19.11.2015, wherein it was recorded that after registration of the case, initially, investigation was conducted by Mahinder Singh, PPS/DSP Sub Division, Kapurthala and SSP, Kapurthala vide memo No.574-79/R dated 31.07.2015 had constituted Special Investigation Team comprising of Superintendent of Police, Detective, Kapurthala, DSP, Special Branch, Kapurthala and Incharge CIA, Kapurthala to investigate the case and send quarterly progress report to S.S.P, Kapurthala. Initially, Jagjit Singh Saroa, PPS SP, Detective, Kapurthala, Sarabjit Rai, PPS DSP, Special Branch, Kapurthala and SI Jaswinderpal Singh, Incharge CIA, Kapurthala were incumbents of the Special Investigation Team. Later on, after transfer, new CIA Incharge, Inspector Ravinder Singh conducted the investigation and offence under Section 3(1) of the Prevention of Corruption Act was deleted and offence under Section 7 of the Prevention of Corruption Act was added. After taking permission from Judicial Magistrate First Class, Kapurthala, statements of 11 inmates namely Jaskaran Singh Kalsi, Raju Singh @ Raju, Harsh Gosain, Simaranjit Singh, K, Amarvir Singh Bajwa, Sukhdev Singh @ Bhutto, Chander Dhir, Sukhwinder Singh and Ravi Shankar were recorded under Section 161 Cr.P.C. Statements of Lakhbir Snigh, Ravi Shankar and Kolu were recorded by the Judicial Magistrate First Class under Section 164 Cr.P.C.

[7]. During investigation, Jagjit Singh Saroa, PPS SP, Detective was transferred and thereafter, further investigation was conducted by Jasbir Singh, PPS SP, Detective, Kapurthala. During investigation, the petitioner filed CRM No.31222-M of 2015 in the High Court for grant of bail. On 22.09.2015, interim bail was granted to the petitioner and he was directed to appear before SIT for joining the investigation. On 01.10.2015, the petitioner was arrested in another case bearing FIR No.159 dated 24.07.2015 registered under Sections 29, 61, 85 of NDPS Act, Section 13(1) of the Prevention of Corruption Act in Police Station City Kapurthala and he could not join the investigation on 03.10.2015. Police sought his remand on 06.10.2015 and produced him before SIT. After joining the investigation, he was handed over to the police of District Faridkot and file was submitted before the High Court. On seeing the status report, the High Court observed that the interim bail was not required as the petitioner was in custody. The petitioner was in judicial custody in Central Jail, Bathinda in the said FIR.

[8]. With the aforesaid facts, the challan was submitted in the Court against the petitioner. Thereafter, vide order dated 21.11.2016 order of charge was passed by the Additional Sessions Judge, Kapurthala and vide order of even date, charge-sheet was framed against the petitioner as stated in the earlier part of the order.

[9]. Learned counsel for the petitioner stated that the impugned order framing charge/charge-sheet is in utter dis-regard to

the mandatory provisions of Section 212 Cr.P.C as the charges are discrepant with regard to time, place and other particulars of the offences in question. The charges viz-a-viz the antecedent behaviour of the petitioner against different inmates cannot be presumed to be on the same date, time and place as different inmates were having different period of custody. Learned counsel further stated that the impugned order has been passed in utter violation of Section 213 Cr.P.C as the manner of committing various offences has not been given. Every charge under the Code must state offence with which the accused is charged. The particulars as to the time, place and person have to be specifically contained. The manner of committing offences must also be stated. Violation of aforesaid requirements would render the charge unsustainable in law. Learned counsel further stated that the offence in terms of Section 59(2) of NDPS Act cannot be pressed into service as the same can only be advanced on a complaint in writing made with previous sanction of Central Government or as the case may be, the State Government. In the absence of aforesaid requirements, no Court can take cognizance of aforesaid offence. According to the learned counsel, even otherwise, the aforesaid offence is not made out for want of any assignment of duty under NDPS Act or giving custody of any of the inmates or any other person charged with an offence under this Act. No such order has been made part of the challan.

[10]. Firstly, the petitioner has been charged under Section 384 IPC for intentionally putting the under-trials/prisoners namely Ravi Shankar, Sukhdev Singh @ Bhutto, Sukhwinder Singh, Amarbir Singh Bajwa, Jaskaran Singh Kalsi, Harsh Gosain, Raju Singh, Chander Dhir and Simaranjit Singh in fear of harsh duty and dishonestly induced them under that fear to deliver money to the petitioner. Learned counsel stated that the statements of aforesaid persons have not been carefully perused. Sukhdev Singh @ Bhutto, Sukhwinder Singh, Chander Dhir and Raju Singh have not alleged anything that they were put under threat by the petitioner and money was paid to the petitioner under such threat. Statement of Jaskaran Singh Kalsi would show that he had arrived in the jail only on 16.09.2014 and before his arrival, the petitioner was removed from the jail duty. His statement was only hearsay from other jail inmates. Statements of other inmates would also show that there is no evidence of any payment made by the prisoners to the petitioners. The police has not collected any evidence as to the source of such large amount paid to the petitioner. No material has been collected by the police to show as to from where such large amount came in possession of the inmates. The police has not collected any evidence with regard to acceptance of any such amount by the petitioner, nor any recovery has been effected from the petitioner or any other person on behalf of the petitioner. The ingredients of offence under Section 384 IPC are totally missing.

[11]. Learned counsel further submitted that the charge under Section 506 IPC is not made out against the petitioner. Petitioner was removed from the jail premises w.e.f. 19.11.2013 and was given duty outside the jail premises. There is no evidence on record to show that the petitioner was ever handed over the charge/custody of the jail inmates who have allegedly leveled allegations against the petitioner. From 19.11.2013, the petitioner had no control over the activities of the jail inmates as he was assigned the duty outside the jail premises.

[12]. Learned counsel further submitted that offence under Section 27-A of NDPS Act is not made out against the petitioner in any manner. No drug has been recovered from the petitioner, nor from any jail inmates. There is no evidence/material to suggest that any such drug racket was in offing in the jail premises. The alleged paddlers/inmates involved in selling of drugs have not been arrayed as accused in the present case. The statements of inmates do not show any such allegation of financing supply of drugs.

[13]. Learned counsel also submitted that the offences under Sections 7 and 13 of the Prevention of Corruption Act are not made out. Petitioner has not received any gratification from anyone in discharge of his official function. No demand is forthcoming. No recovery of money has been effected from the petitioner. The allegation of receiving the money under the threat or to give favour or dis-favour to anyone would be co-extensive with that of offence

under Section 384 IPC. The demand, acceptance and recovery are the necessary ingredients of offences under Sections 7 and 13 of the Prevention of Corruption Act. There is no allegation that the amount allegedly demanded was accepted by the petitioner with reference to date, time, place and manner of making demand and acceptance thereof. The report under Section 173 Cr.P.C is totally silent about it. No recovery has been effected from the petitioner, nor there is any proof of payment made to the petitioner. There is no evidence collected by the Investigating Officer in respect of tracing the amount allegedly paid to the petitioner either in the form of recovery of cash or deposit of the amount in the accounts of the petitioner. No details of date, time, place and manner of giving gratification have been alleged by any of the witnesses.

[14]. Learned counsel further submitted that the report under Section 173 Cr.P.C has been submitted without there being any specific report of Special Investigation Team (SIT), which was constituted under the orders of S.S.P, Kapurthala. Special Investigation Team was comprised of SP, Detective Kapurthala, DSP, Special Branch, Kapurthala and Incharge CIA, Kapurthala. Besides recording statements of jail inmates under Section 161 Cr.P.C, no other evidence was collected by the Special Investigation Team and no report was submitted by the SIT, nor the same was made part of the challan which was presented by SHO, Police Station, Kapurthala on 19.11.2015. The presentation of the challan by SHO, Police Station, Kapurthala is illegal as the report (if any) of

SIT was not made part of the challan, nor any consideration has been made by the Court while framing charges against the petitioner. It would be pertinent to note that Jagjit Singh Saroa, PPS SP, Detective (member of SIT) was transferred and thereafter, investigation was conducted by Jasbir Singh, SP, Detective, Kapurthala. However, Jasbir Singh, SP, Detective, Kapurthala has not been cited as witness by the police while filing the challan, therefore, there will be no Investigating Officer in the case as Jagjit Singh Saroa, PPS SP, Detective was assigned the duty of Investigating Officer being head of Special Investigation Team. Lakhwinder Singh Jakhar, DIG Jails-cum-Chief Vigilance Officer who conducted the verification and whose verification, FIR has been lodged, has not been examined by the Police. Lakhwinder Singh Jakhar, DIG Jails-cum-Chief Vigilance Officer is the complainant in the FIR and he never appeared during course of investigation, nor his statement was recorded by the police in any manner.

[15]. Three statements of Lakhbir Singh @ Lucky Bhullar have been recorded. One statement has been recorded on 08.07.2015 i.e. during his interrogation in some other case. The other statement was recorded on 04.08.2015 and one statement was recorded under Section 164 Cr.P.C. If his statement is co-related at the threshold of ingredients of the offences, one would find that the aforesaid witness along with Balwinder Singh Rangeela, Shabo Khusra, Jagtar Parwana, Jammu and others started doing the business of heroin in Modern Jail, Kapurthala. Admittedly, the

witness was in jail since 20.10.2012 and therefore, he started business of heroin since that day onwards when the petitioner was not even posted in the jail. The witness was allegedly paying bribe to HC Thakar Singh @ Rs.3000/- per week, besides paying Rs.70,000/- per month to the petitioner. The witness was also paying Rs.10,000-15,000/- per month to Assistant Superintendent, Amrik Singh and had also paid shopping bill of Rs.35,000/-. The drugs were supplied to the witness by HC Raj Kumar, HC Ram Singh, Assistant Superintendent Gurtej Singh and jail employee Sukhwinder Singh. The role of the petitioner cannot be alleged even on the basis of these facts appearing on record as the petitioner was not posted at the relevant time, nor any such employees have been arrayed as accused in the present case.

[16]. The confession of Lakhbir Singh @ Lucky Bhullar with regard to alleged drug racket would have made him as accused along with other employees, but no such accused have been arrayed in the present case. The statement of Lakhbir Singh @ Lucky Bhullar under Section 164 Cr.P.C merely stated that the petitioner used to supply drugs inside the jail and had taken Rs.10,000/- once and Rs.15,000/- twice from him. No such allegation of payment of Rs.70,000/- was made in the statement under Section 164 Cr.P.C. If the statement of Lakhbir Singh @ Lucky Bhullar is taken to be a confession, then the procedure under Sections 164(2) & (4) Cr.P.C should have been adhered to by the Magistrate and the same has not been done in the present case. If

the statement of Lakhbir Singh @ Lucky Bhullar is taken to be a statement under Section 164(1) Cr.P.C not being a confession, it should have been recorded in compliance of Section 164(5) Cr.P.C and the procedure as envisaged in Chapter 23 of the Code (Section 273 Cr.P.C) should have been followed.

[17]. Learned counsel further sought to argue that the statements of the witnesses can be categorized in two categories. Firstly, statements of those who have alleged involvement of the petitioner and other employees in the drug racket. Secondly, statements of those witnesses who have alleged extortion of money by the petitioner and others. By referring to the statements of Chander Dhir, Raju Singh, Sukhdev Singh @ Bhutto and Sukhwinder Singh, learned counsel stated that Chander Dhir has not made any reference of Lakhbir Singh, nor there is any allegation that he had ever given any money to the petitioner. The main accused as per the allegations is Rajesh Pandit, who has not been arrayed as accused and there is no recovery of drugs at any point of time. Similarly, statements of other witnesses are also discrepant with regard to connectivity as projected by the prosecution. Statements of Ravi Shankar, Simaranjit Singh, Jaskaran Singh Kalsi, Harsh Gosain, Amarbir Singh Bajwa and Kolu have also been criticized, being not sufficient to give rise to any such incriminating material so as to frame any charge against the petitioner. By referring to the aforesaid incriminating material, learned counsel seeks to annul the charges in question.

[18]. On the other hand, learned State counsel has opposed the revision petition. He has submitted that there is no illegality or perversity in the impugned order and as such, has prayed for the dismissal of the revision petition.

[19]. I have considered the submissions made by learned counsel for the parties.

[20]. It is a settled principle of law that at the time of framing of charge, no meticulous examination of material is to be done, however, the charge should not be vague. Charge should be specific and shall state the offence with which the accused is charged. The particulars of time, place and person should be mentioned and the charge shall contain such particulars as to the time and place of alleged offence, so as to facilitate the accused to come with a definite defence. The different charges have been leveled against the petitioner with the involvement of the inmates and employees. The charge-sheet depicted that on or before 06.07.2015, the offences were committed with the involvement of different inmates and the petitioner. In every instance, the date, time and place cannot be presumed to be similar. Different inmates remained in the jail on different durations. Even otherwise, charge of different offences cannot be presumed at one point of time. The charges framed against the petitioner are conspicuously missing with regard to exact date, time, manner and place of occurrence. Even the statements of inmates recorded by the Investigating

Officer, do not suggest any such thing, so as to advance any cause of prosecution with regard to specific date, time, place and manner of occurrence.

[21]. It is a settled principle of law that at the stage of framing of charge, Magistrate can sift the evidence for limited purpose. Detailed scrutiny is not to be done. Prosecution story need not be accepted as gospel truth. If the charge is found to be groundless, then the Magistrate on consideration of the police report and the documents and making such examination as deemed appropriate, may discharge the accused, but if there is ground to presume that accused has committed an offence, the charge can be framed. The basic concept is that the Court has to see the *prima facie* nature of the case at the time of framing of charge. Broad probability of the case can be considered. Following principles are to be kept in mind at the time of framing of charge:-

"(1) The Court while framing the charge has 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.

(2) 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 proceed with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Court is satisfied that

the evidence produced before the Court while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercise of jurisdiction, the Court cannot act merely as a Post-Office or a mouth-piece 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 appearing in the case and so on. This however does not mean that the Court should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."

[22]. The principles highlighted in **Union of India Vs. Prafulla Kumar Samal and another, AIR 1979 Supreme Court 366** and reiterated in **Supdt. and Remembrancer of Legal Affairs, West Bengal Vs. Anil Kumar Bhunja and others, AIR 1980 Supreme Court 52** can be relied in the aforesaid context. No conviction can be formed on the basis of defective charge. If the charge is vague and defective, the benefit must go to the accused. At the time of framing of charge, the Court is justified to discharge the accused, if the Court finds some suspicion which is not grave. The prosecution has not made Lakhbir Singh @ Lucky Bhullar as an approver or an accused in any manner, even on the basis of statements including statement under Section 164 Cr.P.C. Even other inmates who were also allegedly involved in the business of selling narcotics, have not been arrayed as accused, nor as approvers. Though the learned counsel for the petitioner has argued on the basis of material collected by the police, but the scope of the present revision petition

is to see whether charges have been framed within the four corners of the requirements of Sections 211, 212 and 213 Cr.P.C or not.

[23]. Evidently, all the charges framed for the offences in question relate to the period on or before 06.07.2015. The charges are not specific in terms of date, time, place and manner of the incidents involving different offences. The FIR does not contain any specific statement about the date, time, place and manner of the alleged threat, nor the witnesses have stated about the date, time, place and manner of alleged threat. It was mandatory to mention the date, time, place and manner of incidents in the charge. In **Shaukat Ali and others Vs. Shamsuddin, 2009(24) RCR (Criminal) 949**, the charges were quashed even after recording the statements of prosecution witnesses, when the charges were ultimately found to be vague and indefinite in terms of requirements of Section 212 Cr.P.C. The charge must contain particulars as to the time, date, place and manner of the alleged offences, which are reasonably sufficient to give the accused notice of matter with which he is charged. The provisions of Section 212 Cr.P.C are mandatory as held in **Onkar Nath and others Vs. State of Punjab and another, 1993(3) RCR (Criminal) 728**. In **Suresh Kumar Vs. State of Haryana, 2005(14) RCR (Criminal) 212**, the scope of Section 401 Cr.P.C viz-a-viz Section 212 Cr.P.C was highlighted. Charge-sheet issued without particulars as to time, place and alleged offence was quashed being in violation of mandatory statutory provision of Section 212 Cr.P.C.

[24]. Perusal of the impugned order/charge-sheet would show that a composite charge-sheet has been issued for the offences under different statutes. In all the charges, a common feature has emerged i.e. the date, time, place and manner of the alleged offences are stated to be on or before 06.07.2015. The involvement of different persons in respect of different transactions/occurrences would make the charge vague by virtue of Section 219(1) Cr.P.C as well.

[25]. Perusal of the material before this Court would show that this Court was sanguine of the fact whether the report of Special Investigation team has been made part of the challan or not. Orders dated 31.01.2017 and 17.02.2020 passed in the present revision petition would make the things clear. The investigation of the case was entrusted to Investigating Officer of the Special Investigation Team which on transfer was succeeded by another incumbent. The original Investigating Officer of the SIT who had conducted the investigation, has not been cited as witness.

[26]. Be that as it may, it would be appropriate to set aside the order(s) of charge/charge-sheet at this stage, with a direction to the trial Court to re-consider framing of charge on the basis of material on record. Needless to say that the proceedings conducted by the trial Court as on date would result in futility. If the trial Court finds that a case worth trial is made out, the Court may frame a lawful charge and proceed with the trial in lawful manner. Anything

observed hereinabove would not be construed to be an opinion on merits of the case. The factual position has been recorded just on the basis of arguments raised by learned counsel for the parties and for consideration of material within the framework of requirement of law in terms of Sections 211, 212 and 213 Cr.P.C.

[27]. With the aforesaid observations, impugned order dated 21.11.2016 passed by Additional Sessions Judge, Kapurthala and resultant charge-sheet of the even date, vide which charges were framed, are hereby set aside. The case is remanded to the trial Court for further consideration on merits.

(RAJ MOHAN SINGH)
JUDGE

27.05.2020
Prince

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