

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

CRR-550-2019 (O&M)

Date of decision: 10.03.2021

Bhupinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. P.S. Ahluwalia, Advocate for the petitioner.

Mr. J.S. Ghuman, DAG, Punjab.

Mr. GBS Dhillon, Advocate with
Mr. Jagdeep Singh, Advocate for the complainant.

H.S. MADAAN, J. (Oral)

On completion of investigation in FIR No.168 dated 27.06.2017, for offences under Sections 306, 384, 386, 387 IPC and Section 67 and 67-A of the Information Technology Act (for short 'the Act'), registered with Police Station Sidhwan Bet, Jalandhar, the investigating agency had filed the challan against Satnam Singh and his maternal uncle Bhupinder Singh, however, a supplementary challan was filed, vide which Daljit Singh and Harjit Kaur parents of Satnam Singh were found to be innocent and were not challaned and Bhupinder Singh was also found innocent and was sought to be got discharged. When the case came up for consideration on the point of framing of charge, learned Addl. Sessions Judge, Ludhiana, vide impugned order observed that of

the two versions presented by the investigating agency, once evidence is led then it would be seen as to which of the version is correct and as such, directed framing of charge for offences under Sections 120-B, 384 and 306 IPC and Section 37 of the Act against all the accused. It was so done. Accused pleaded not guilty and the case was fixed for evidence of prosecution.

However, petitioner Bhupinder Singh felt aggrieved by the said order and has challenged the same before this Court, by way of filing the present criminal revision petition, notice of which was given to the State as well as complainant and they have put in appearance.

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

In a judgment referred to by learned counsel for the revisionist, **Vinay Tyagi Vs. Irshad Ali @ Deepak & Ors, 2013 (2) RCR (Criminal) 197**, the Apex Court had observed as under:-

“31. Having discussed the scope of power of the Magistrate under Section 173 of the Code, now we have to examine the kind of reports that are contemplated under the provisions of the Code and/or as per the judgments of this Court. The first and the foremost document that reaches the jurisdiction of the Magistrate is the First Information Report. Then, upon completion of the investigation, the police are required to file a report in terms of Section 173(2) of the Code. It will be appropriate to term this report as a primary report, as it is the very foundation of the case of the prosecution before the Court. It is the record of the case and the documents annexed thereto, which are considered by the Court and then the Court of the Magistrate is expected to exercise any of the three options afore-noticed. Out of the stated options with the Court, the jurisdiction it would exercise has to be in strict

consonance with the settled principles of law. The power of the magistrate to direct further investigation is a significant power which has to be exercised sparingly, in exceptional cases and to achieve the ends of justice. To provide fair, proper and unquestionable investigation is the obligation of the investigating agency and the Court in its supervisory capacity is required to ensure the same. Further investigation conducted under the orders of the Court, including that of the Magistrate or by the police of its own accord and, for valid reasons, would lead to the filing of a supplementary report. Such supplementary report shall be dealt with as part of the primary report. This is clear from the fact that the provisions of Sections 173(3) to 173(6) would be applicable to such reports in terms of Section 173(8) of the Code.

32. Both these reports have to be read conjointly and it is the cumulative effect of the reports and the documents annexed thereto to which the Court would be expected to apply its mind to determine whether there exist grounds to presume that the accused has committed the offence. If the answer is in the negative, on the basis of these reports, the Court shall discharge an accused in compliance with the provisions of Section 227 of the Code.”

In a recent judgment by a Co-ordinate Bench titled as **Baljit Singh Vs. State of Punjab & Ors., 2020(4) RCR (Criminal) 228**, where at the time of framing of charge, supplementary challan had not been considered by the trial Court, the order framing charge was found to be not sustainable and it was set aside, directing the trial Court to pass fresh order after considering both the reports along with documents produced on file. These judgments do find application to the present case. Obviously, the trial Court has not considered both the reports at the time of framing of charge and rather, observed that only after recording of

evidence, it would be seen as to which of the version given is correct. Therefore, the order cannot survive. The criminal revision petition has got merit. The same is accepted. The impugned order is set aside with a direction to the trial Court to reconsider the matter in the light of the original challan filed as well as supplementary challan submitted in the Court, as per observations made above and then to pass appropriate orders in the matter. It be so done within a period of one month from the date of receipt of copy of the order in that Court.

10.03.2021

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(H.S. MADAAN)
JUDGE

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