

THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15621-2021
Date of Decision: 09.04.2021

Chander Pal

....Petitioner

Versus

State of Haryana

.....Respondents

CORAM: Hon'ble Mr. Justice Harnaresh Singh Gill

Present: Mr. Ashwani Gaur, Advocate, for the petitioner.

Harnaresh Singh Gill, J.

Case is taken up for hearing through video conferencing.

Challenge in the present petition is to the order dated 01.02.2021 passed by the learned Additional Sessions Judge, Hisar, whereby the revision petition filed by the petitioner against the order dated 11.12.2019 passed by the learned Judicial Magistrate, framing the charge against the petitioner was dismissed.

Learned counsel for the petitioner vehemently contends that the charge framed by the learned trial Court vide order dated 11.12.2019 under Section 167 IPC, is legally untenable, inasmuch as, the very foundation of the said Section is based on the existence of mens-rea at the time of commission of the alleged offence. While emphasizing on the words “....*in a manner, which he knows or believes to be incorrect, intending*

thereby to cause or knowing it to be likely that he may thereby cause injury to any person....”, of Section 167 IPC, learned counsel for the petitioner submits that there was neither any knowledge nor any belief on the part of the petitioner, while making the alleged report mentioning Satish Kumar son of Raj Kumar, resident of village Khedar as grandson of Telu Ram and hence, the charge framed by the learned trial Court is untenable in the eye of law.

However, I do not find any merit in the submissions made by the learned counsel for the petitioner.

The question of mens-rea cannot be gone into at the time of framing of the charge. Moreover, it is well settled that the Courts are to see only a prima-facie case at the stage of framing of the charge(s). It is not disputed by the learned counsel for the petitioner that the FIR was originally got registered under Sections 420, 467, 468 and 471 IPC by the complainant i.e. the then Deputy Commissioner, District Hisar, whereas the learned trial Court, after having taken into consideration the entire material on record, has framed the charge under Section 167 IPC. The said approach of the trial Court rather shows the proper application of judicious mind and it cannot be alleged by the petitioner that the said approach is perverse or illegal.

The judgment of the Hon'ble Apex Court in State of West Bengal Vs. Babu Chakraborty, 2004(4) RCR (Criminal) 252, relied upon by the learned counsel for the petitioner, has no applicability in the present case, at this stage. It is open to the petitioner to disprove the case set up by the prosecution and

justify his reliance on the said judgment during the course of trial. Whether or not the petitioner had any mens-rea at the time of commission of the alleged crime, is a matter of evidence and it is open to the petitioner to prove his innocence before the trial Court, by leading such cogent and material evidence. However, the order framing the charge cannot be interfered with so as to scuttle the criminal proceedings, at the very pre-trial stage.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

09.04.2021
ds

(Harnaresh Singh Gill)
Judge

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