

CRM-35000 of 2018;
CRM-28349 of 2019; and
CRM-34265 of 2021 in/and
CRR-3298 of 2018

-1-

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

116

CRM-35000 of 2018;
CRM-28349 of 2019; and
CRM-34265 of 2021 in/and
CRR-3298 of 2018
Date of Decision:13.10.2021

Nirmal Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. R.K. Samyal, Advocate,
for the applicant-petitioner.

Mr. Peeush Gagneja, Advocate,
for the complainant.

Mr. Ramdeep Partap Singh, DAG, Punjab

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

Vide the revision petition, the petitioner seeks the setting aside of the order dated 30.05.2018, vide which he has been summoned (under the provisions of Section 319 of the Cr.P.C.), to face trial in the context of a case bearing FIR no.01, dated 01.01.2011, registered at Police Station City Jagraon, District Ludhiana, alleging therein the commission of offences punishable under Sections

**CRM-35000 of 2018;
CRM-28349 of 2019; and
CRM-34265 of 2021 in/and
CRR-3298 of 2018**

-2-

307, 452, 506, 323, 294, 379/34 of the IPC.

On 15.09.2021 the following order had been passed in this case by this court in the application filed by the petitioner (CRM-29450 of 2021):-

“Vide this application, advancement of the date of hearing in the accompanying petition is sought, with learned counsel for the applicant submitting that the next date of hearing before the trial court is 17.09.2021, i.e. the day after tomorrow.

Upon further query, he submits that the petitioner has been wholly erroneously summoned upon an application under Section 319 of the Cr.P.c. having been moved, in view the fact that the petitioner is 54 years old and is a turbaned person with a beard, whereas in the FIR it is very clearly stated that the other person who had accompanied accused Gursewak Singh and Jasbir Kaur, was a clean shaven youth aged about 24/25 years old.

Notice in the application, with Mr. Ramdeep Partap Singh, learned DAG, Punjab, accepting notice on behalf of the respondent-State, on the asking of the court.

It is to be noticed here that though the complainant in the FIR was impleaded as respondent no.2 vide an order dated 12.09.2019 and notice was ordered to be issued to the said respondent on 17.09.2019, and the report of the Registry before the next date of hearing was that service is complete, none has put in appearance for the complainant so far.

Even so, fresh notice in the application be issued to respondent no.2, returnable on 30.09.2021.

Process dasti only.

[While effecting dasti service, naturally all precautionary measures as are to be taken during this pandemic, shall be taken, including wearing of masks and distancing].

**CRM-35000 of 2018;
CRM-28349 of 2019; and
CRM-34265 of 2021 in/and
CRR-3298 of 2018**

-3-

In the meanwhile, in view of what has been contended before this court today , the trial court is directed to not frame charges against the petitioner till the next date of hearing only and specifically.

It is made clear that any adjournment sought by the counsel for the petitioner on the next date of hearing, for any reason whatsoever, would entail immediate vacation of the interim order, with no further order required to be passed in that regard, with the same to hold good in case of non-service of the notice issued, upon respondent no.2.

To be shown in the urgent motion list.”

Thereafter, on September 30, 2021, with counsel for the petitioner having submitted that the next date of hearing before the trial court is 18.10.2021 and that he wishes to argue the matter on a date before that, with learned counsel for respondent no.2 (complainant) not having objected to that, the date of hearing in the accompanying petition was fixed for today, with the matter to be shown in the urgent motion list.

CRM-34265 of 2021 has also been filed by respondent no.2, seeking to place on record two photographs, which he submits are of the petitioner and the wife of the complainant.

Learned counsel for respondent no.2 further submits that the said photographs are necessary to be taken on record in view of the fact that the petitioners' contention is that he does not even know the wife of respondent no.2, whereas he submits that he would not be able to deny that the two persons in the photographs are shown to be the petitioner and the wife of respondent no.2.

**CRM-35000 of 2018;
CRM-28349 of 2019; and
CRM-34265 of 2021 in/and
CRR-3298 of 2018**

-4-

Notice in the application.

Mr. Ramdeep Partap Singh, learned DAG, Punjab, accepts notice at the asking of the court.

None having appeared for the petitioner, when this court was in the process of dismissing the application seeking advancement of the date of hearing and vacating the interim order, Mr. Samyal joins the video conference and submits that he was caught up somewhere.

Be that as it may, in view of the fact that learned counsel for respondent no.2 has submitted before this court that at the time that the FIR in question was registered, i.e. 01.01.2011, the petitioner did not sport a turban and a beard whereas now he does and has obviously aged 11 years, (though 30 years have not passed yet as regards estimation of a person age on a particular date, i.e. on 01.01.2011, it may be a mistake to have stated that he was in his twenties), and with his appearance completely now having changed, those questions would be looked at by the trial court.

I agree with learned counsel for respondent no.2 and consequently, without making any comment on the actual merits of this case, I find no ground to entertain the petition any further, with the application seeking advancement of the date of hearing allowed and the petition taken up for today itself.

Main case

For the reasons stated hereinabove, again without making any comment on the actual merits of the case, the petition is dismissed. The interim order is vacated.

The trial court would naturally proceed with the matter wholly on the

CRM-35000 of 2018;
CRM-28349 of 2019; and
CRM-34265 of 2021 in/and
CRR-3298 of 2018

basis of evidence led before it.

October 13, 2021
dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No