

Dr. Pyara Lal Garg

..... Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ashok Sharma Nabhewala, Advocate, for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

CRM-13155-2022

Annexures P-10 to P-11 are taken on record.

Application stands allowed.

Main case

With the consent of learned counsel for the parties, the main case is taken on board today itself.

This petition has been filed by the petitioner impugning the order dated 2.7.2019 passed by the Additional Sessions Judge, Patiala, whereby the prayer for further investigation/re-investigation was declined.

Learned counsel for the petitioner submits that on the earlier occasion, he approached this Court by way of filing CWP-5195-2013 with a prayer for issuance of direction that criminal case be re-investigated and tried for alleged offence under 306 IPC against respondents No. 8 and 9 for the death of his sister Murti Devi be withdrawn and the case be handed over for fresh investigation. He submits that after hearing, the aforesaid writ petition disposed of by this Court by declining the prayer of further investigation, however, this Court had specifically observed that the Courts have ample powers under

Section 216 Cr.P.C. to alter or add any charge before the judgment is pronounced. The trial Court was directed to follow usual procedure of what is detailed under Sections 216 and 217 Cr.P.C., if, there are reasonable grounds made out for such alteration. Learned counsel for the petitioner has projected before this Court that in all fairness though the High Court had declined his prayer for further investigation, however, he was given liberty to agitate his grievance regarding alteration of charge under Section 216 Cr.P.C. if the relevant material is made available on record. The only grievance he has raised before this Court pertaining to the impugned order dated 2.7.2019 is that the Court of learned Additional Sessions Judge has not even taken into consideration his prayer for producing relevant material for the alteration of charge under Section 216 Cr.P.C. He submits that thereafter, he again approached this Court by way of filing CWP-26089-2015, wherein the petition was ordered to be dismissed as withdrawn with liberty that in case the application is filed, the same shall be decided in accordance with law. Learned counsel for the petitioner submits that his grievance would be redressed, if his plea is heard by the trial Court regarding alteration of charge under Section 216 Cr.P.C.

Heard.

After hearing learned counsel for the parties and perusing the record, this Court is satisfied that so far as the prayer for further investigation/re-investigation is concerned, the matter is already closed. So far as his second prayer regarding alteration of charge under Section 216 Cr.P.C. is concerned, that grievance could not have been foreclosed by the learned trial Court. To meet the ends of justice, this Court finds it appropriate to direct that

in case the petitioner files appropriate application under Section 216 Cr.P.C. by producing relevant material for invoking the power under Section 216 Cr.P.C., then the same shall be taken into consideration by the trial Court and dealt with in accordance with law. The impugned order dated 2.7.2019 is set aside to that extent only.

The petition stands disposed of in above mentioned terms. In view of the decision of the main case no order is required to be passed in CRM-13161-2022 and the same is disposed of accordingly.

(RAJESH BHARDWAJ)
JUDGE

8.4.2022

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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No