

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

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CRM-M-39176-2022

Date of Decision: 01.09.2022

Prateek Nepalia

...Petitioner.

Versus

State of Haryana

...Respondent.

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Navkesh Singh Goraya, Advocate for the petitioner.

Harnaresh Singh Gill, J. (Oral)

Through this petition, the petitioner seeks quashing of Charge-sheet dated 30.10.2021 (Annexure P-4) arising out of FIR No.188 dated 23.05.2020, registered at Police Station DLF, Gurugram, under Sections 406, 420 and 120-B IPC.

Learned counsel for the petitioner states that the petitioner though was director but has resigned from the company on 10.09.2019, whereas the present FIR has been registered on 23.05.2020. He further states that even as per the charge-sheet dated 30.10.2021, nothing has been found against the petitioner and, thus, the petitioner prays for quashing of the FIR as well as the charge-sheet.

Learned counsel for the petitioner also relied upon the order dated 28.07.2022 passed by this Court in CRM-M-30203-2022 titled 'Kaushik Bose Vs. State of Haryana'.

I have heard the learned counsel for the petitioner and also gone through the documents placed on record.

The Hon'ble Supreme Court in case titled as **State of Rajasthan Vs. Fatehkaran Mehdu, 2017(2) R.C.R. (Criminal)** page 1 has held as under:-

“29. The Court in para 27 has recorded its conclusion and laid down principles to be considered for exercise of jurisdiction under Section 397 particularly in context of quashing of charge framed under Section 228 Cr. P. C. Para 27, 27(1), (2), (3), (9), (13) are extracted as follows:

"27. Having discussed the scope of jurisdiction under these two provisions, i.e., Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be appropriate for us to enlist the principles with reference to which the courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:

27.1) Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

27.2) The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

27.3) The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.9) Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the Court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

27.13) Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.”

It is reiterated that at the time of framing of the charge, the Court concerned is only to see whether or not a prima-facie case is made out

against the accused. There is no dispute to the factum that the accused shall have ample opportunity to prove his innocence by leading cogent and convincing evidence during the course of trial. However, the such process of the trial cannot be curtailed by holding that the order framing the charge against the petitioner does not hold the legal ground.

In view of the above discussion, I do not find any merit in the present petition.

Dismissed.

Anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(HARNARESH SINGH GILL)
JUDGE

01.09.2022

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