

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204

CRM-M No.5238 of 2020 (O&M)

DATE OF DECISION: 13th SEPTEMBER, 2023

Gaurav Dang

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Sunil Kumar, Advocate for
Mr. K.S. Dadwal, Advocate for the petitioner.

Mr. Sandeep, Additional Advocate General, Punjab with
ASI Sukhwinder Singh.

Ms. G.K. Maan, Senior Advocate with
Mr. Sunil Kumar and Mr. K.S. Dhanora, Advocates,
for respondent Nos.2 to 6.

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RAJBIR SEHRAWAT, J. (Oral)

1. This petition under Section 482 of the Code of Criminal Procedure has been filed for setting aside the order dated 24.05.2016 (Annexure P-8) passed by the Judicial Magistrate Ist Class, Ludhiana, as well as, order dated 02.12.2019 (Annexure P-9) passed by the Additional Sessions Judge, Ludhiana in FIR No.165 dated 19.08.2009 registered under Sections 420 and 120-B IPC at Police Station Haibowal, District Ludhiana, whereby the application dated 13.05.2015 filed by the petitioner under Section 216 Cr.P.C. has been dismissed, with certain other prayers made in the present petition.

2. Learned State counsel, being instructed by ASI Sukhwinder Singh, has submitted that the Public Prosecutor had filed an application under Section 216 Cr.P.C. for alteration of the charges framed against the accused. However, the said application was dismissed by the trial Court

on 24.05.2016. Thereafter, the petitioner, who is the complainant in the case, had filed the revision petition against the said order before the Court of Additional Sessions Judge, Ludhiana. However, even the said revision petition was dismissed by the Revisional Court. It is challenging the aforesaid orders, that the present petition has been filed. However, in the meantime, the entire prosecution evidence has already been completed.

3. In view of the above, this Court is of the view that the petitioner has already lost before the two Courts. Now, the petitioner is trying to re-argue the case on the same points which has lost in the Revisional Court. Therefore, the present petition is in the nature of second revision by the same parties on the same cause of action. However, this course of action is prohibited by Section 399 (3) Cr.P.C. The petitioner cannot be permitted to file the petition under Section 482 Cr.P.C. just to by-pass the statutory provisions, particularly, when even the ingredients of Section 482 Cr.P.C. are not involved in the case. Moreover, the Public Prosecutor has not even challenged the order passed by the trial Court dismissing the application for alteration of charges. Therefore, the master of the case is fully satisfied with the charges framed against the accused by the trial Court.

4. Moreover, even the evidence of the prosecution is completed by now.

5. Therefore, this Court does not find any merit in the present petition and the same is dismissed accordingly.

13th SEPTEMBER, 2023

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Whether speaking/reasoned:

Whether Reportable:

(RAJBIR SEHRAWAT)

JUDGE

Yes No

Yes No