

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40207 of 2017(O&M)

Date of Decision: 29.05.2023

Rakesh Wadhawan

...Petitioner

Versus

Sohan Lal Arora

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. H.S. Randhawa, Advocate
For the petitioner.

Mr. Pranav Chamoli, Advocate
For respondent

KARAMJIT SINGH, J.

CRM-22714 of 2023

This is an application for pre-ponment of main case (CRM-M-40207 of 2017) which is fixed for 13.09.2023.

For the reasons mentioned in the application, the same is allowed and hearing of main case is pre-poned and the same is taken up for hearing today itself. Compromise, Annexure A-1 is also taken on record.

CRM-M-40207 of 2017

1. Present petition has been filed by the petitioner seeking quashing of impugned order dated 19.09.2017, Annexure P-7 passed by the Court of Judicial Magistrate Ist Class, Chandigarh and criminal complaint filed under Section 156(3) Cr.P.C. (Annexure P-1) which is pending in the Court of Judicial Magistrate Ist Class, Chandigarh.

2. In the present petition, notice of motion was issued vide order dated 26.10.2017 and thereafter respondent put in his appearance. However, during the pendency of the present petition matter stands compromised between the parties and the compromise deed is Annexure A-1.

3. I have heard the counsel for the parties.

4. The admitted facts are that respondent filed application under Section 156(3) Cr.P.C. against petitioner and two other persons namely Bhagat Kumar Bansal and Anil Kumar Bansal with direction to SHO to register the FIR and to investigate the matter. The learned trial Court took cognizance of the said complaint and during preliminary evidence examined petitioner as CW3. Thereafter, petitioner filed an application with request for his re-examination and during the pendency of the said application the learned trial Court passed impugned order, Annexure P-7 whereby show cause notice was issued to the petitioner as to why action should not be taken against him. Being aggrieved, the petitioner has filed the present petition.

5. The counsel appearing on behalf of the petitioner submits that as the parties have effected compromise, the parties will make request for withdrawal of the complaint Annexure P-1 before the learned trial Court and as such he is not pressing for quashing of complaint Annexure P-1 in the present petition.

6. I have gone through the impugned order, Annexure P-7. It is not clear as to on what basis show cause notice was issued by the learned trial Court to the petitioner vide impugned order, Annexure P-7. It is also not clear as to under which provision of law the learned trial Court allowed the accused person (petitioner) to appear as a witness on behalf of respondent

(complainant). In the given circumstances, the impugned order Annexure P-7 being illegal, deserves to be set aside.

7. Accordingly, the present petition is allowed and the impugned order Annexure P-7 is set aside. The present petition stands disposed of in the aforesaid terms.

29.05.2023

Jiten

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No