

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.36199 of 2023 (O&M)

Reserved on: 29.08.2023

Date of Pronouncement: 01.09.2023

Sukhwant Singh & others

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Sandeep Wadhawan, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
27	13.01.2021	Zirakpur, District SAS Nagar, Mohali	420, 421, 466, 467, 471, 16, 120-B IPC and Section 12 of the Passport Act, 1976

Seeking issuance of directions to the trial Court to club and try all the 31 prosecution cases, based on police reports under Section 173(8) CrPC in the FIR captioned above, as one trial instead of separate trials, the accused have come up before this Court under Section 482 CrPC.

2. I have heard learned counsel for the petitioners on making out a *prima facie* case for issuance of notice to the State.

3. The petitioners’ counsel primarily argued that under Sections 220(1), (3) and (4) CrPC, it is a statutory requirement that all the charges be tried as one trial. He further referred to Section 221 CrPC and stated that if there is any doubt regarding commission of several offences, then that person must be charged with one and all of such offences and any number of charges may be tried at once. Thus, the petitioners’ best argument for the petitioners is that 31 separate trials on the basis of different police reports, in one single FIR, is violative of the provisions of Sections 219, 220 and 221 CrPC. The petitioners next contention is that filing of separate police reports is also violative of Section 300 CrPC, because it amounts to *double jeopardy*. Furthermore, their fundamental rights, as guaranteed under Article 20(2) of the Constitution of India, have

also been violated.

4. The allegations against the petitioners are that while conducting investigation in some other matter, it had transpired that from 30.5.2016 to 26.10.2017, verifications of certain passport applications, which were conducted by the petitioner no.1, who was then posted as Verification Officer at Zirakpur, were found to be fake. The prosecution's case is that the rules require that the Verification Officer has to visit the house of the applicant of the passport and then verify from neighbourhood about the address given in the application that whether it is genuine or fake. In nutshell, the allegations against the petitioner no.1 is that he never visited the spot and gave reports favouring the applicants. Petitioners no.2 and 3 have been subsequently arraigned as accused under Section 120-B IPC and other offences. It is not that the petitioners are seeking quashing on merits, but their grievance is that although only a single FIR (captioned above) was registered but the investigating agency has filed 31 separate reports under Section 173(1) CrPC, which would result into 31 separate trials.

5. A perusal of order dated 17.3.2022 passed by trial Court points out that charges were framed against the petitioners in the aforesaid FIR. While passing the order of framing of charges, the trial Court referred to police investigation and police report and found *prima facie* evidence of preparing fake passports based on forged Aadhaar Cards. The details of such cases have been mentioned in the order and since the order of framing of charges has not been challenged, as such this Court is not referring to the details therein. After considering the evidence, the trial Court found *prima facie* material against the petitioners of having committed offences under Sections 417, 466, 468, 471, 168 read with Section 120-B IPC, 12 of the Passport Act and Sections 7, 8 and 1392) of the Prevention of Corruption Act.

REASONING:

6. Section 219 CrPC provides that three offences of similar kind within a year may be charged together. In the present case, the time period of all offences is 12 months. Thus, even as per Section 219 CrPC, the maximum number of offences which could have been charged together were three. In the present case, the petitioner seeks clubbing of 31 charges, which is beyond the scope of Section 219 CrPC. Moreover, although the petitioners' counsel made oral argument that three cases be tried together, but perusal of the prayer clause reveals that there is no prayer in this regard. Therefore, this Court cannot *suo motu* issue a direction in this regard. However, liberty is reserved to the petitioner on this score.

7. Section 220 CrPC(1) provides that if in series of acts so connected together that they form same transaction, more offences than one are committed by the same

person, he may be charged with and tried at one trial. In the present case, the allegations establish a similar kind of *modus operandi* on behalf of the accused to commit offences, but despite that, they do not make a series of offences so as to term them being connected together. This is for the reason that in every application for verification of passport, separate Adhaar Card and other documents are attached to prove the given addresses and every address is separately verified. Thus, every such application is separately proved to make out a case. Given this, provisions of Section 220(1) CrPC would not be attracted in the facts of the present case.

8. Similarly, Section 220(3) CrPC provides that the acts which constitute an offence falling within two or more separate definitions of any law in force. The present facts would not make out a case to be tried under Section 220(3) CrPC, for the reasons as have been mentioned above.

9. Section 220(4) CrPC would also not be attracted in the present case, for the reasons that several acts would constitute an offence against the same victim, but for every application, the beneficiaries were different, because fake verification reports were given for different passports. As such, even the provisions of Section 220(4) CrPC would not be attracted in the present case. Even the case of the petitioner does not fall under any of the illustrations given in the Section 220 CrPC.

10. Section 221 CrPC provides that when a single act or a series of acts is of such a nature, which makes it doubtful, that facts of which several offences can be proved, will constitute an offence, then in such a situation, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once or he may be charged, in the alternative, for commission of one of the said offences. In the present case, all passports were based on separate applications and every time the addresses were fake with different corroborating proofs submitted for identify and addresses. As such, provisions of Section 221 CrPC will not entitle the petitioners to claim that all 31 challans should be tried together.

11. Regarding violation of Section 300 CrPC, the argument is misconceived. Every fake verification and consequent fake passport would constitute a separate offence by the person who uses it. Section 300 CrPC provides that a person once convicted or acquitted is not to be tried for the same offence. In the present case, there was one FIR and the investigator filed separate chargesheets, because the evidence collected in each of the case was different. As such, by no stretch of imagination, the petitioner is entitled to protection under Section 300 CrPC.

12. Similarly, it is not a case of violation of Article 20(2) of the Constitution of India.

13. Thus, no case is made out for issuance of notice in the present case.
14. The petition is dismissed.
15. However, it is clarified that the observations made hereinabove shall confine to deciding the present petition only and the trial Court shall neither refer to nor be influenced therefrom while undergoing/concluding the trial.

(ANOOP CHITKARA)
JUDGE

September 01, 2023
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Whether speaking/reasoned	:	Yes
Whether reportable	:	No