

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 39359/2023

Date of decision: 10.08.2023.

Satyawar

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Wazir Singh, Advocate for the petitioner.

Nidhi Gupta, J.

Prayer in this petition under Section 482 Cr.P.C. is to direct Ld. JMIC Safidon to club / commit the proceedings in the case FIR No. 414 dated 24.11.2021 (ANNEXURE P-2) U/S 148, 149, 323, 325, 341, 506 of IPC, registered at Police Station, Safidon, proceedings of the case No. CHI/96/2022 titled as 'State Versus Robin and others' which is kept pending before Ld. JMIC Safidon, with the second FIR No.136 (ANNEXURE P-1) dated 13.05.2020, U/S 341, 354-A, 376 (2) (n), 506 IPC (later on section 376 (2) (n) deleted and section 376 IPC added), registered at Police Station, Safidon, District Jind, trial of case No. SC 3/ 2021 titled as 'State Versus Paramjeet' which is kept pending before Ld. Additional Sessions Judge, Jind, as both the cases pertain to single/ same incident dated 11.05.2020, in the interest of justice. Further, direction is sought to direct to the Ld. JMIC, Safidon to decide the application (Annexure P-3) for clubbing of the abovesaid proceedings in time bound manner.

Ld. Counsel for the petitioner submits that petitioner is father of the accused in FIR no.136 dated 13.5.2020 under Section 341, 354-A, 376(2)(n), 506 (later on section 376(2) (n) deleted and section 376 IPC added), registered at PS Safidon, District Jind, which was registered on the basis of statement of the prosecutrix. In pursuance of the FIR No.136 dated 13.5.2020 (Annexure P-1), petitioner filed the present FIR No.414/24.11.2021 (Annexure P-2) under the directions of JMIC, Safidon as the petitioner's son/accused was in Jail, mentioning that the alleged victim had lodged a false case in collusion with her family members. Ld. Counsel submits that this is a case of cross FIRs as both the FIRs pertain to the same incident of 11.5.2020.

Ld. Counsel further relies upon judgment of the Hon'ble Supreme Court in **Sudhir v State of M.P. Law Finder Doc Id # 12925** to submit that Hon'ble Supreme Court in the above said case has held that when two criminal cases relate to the same incident, they are tried and disposed of by the same Court by pronouncing the judgment on the same day. In this regard, Ld. Counsel refers to para 9 of the above judgment, which is reproduced hereunder:-

“9. It is a salutary practice, when two criminal cases relate to the same incident, they are tried and disposed of by the same Court by pronouncing judgments on the same day. Such two different versions of the same incident resulting in two criminal cases are compendiously called "case and counter case" by some High Courts and "cross cases" by some other High Courts. Way back in nineteen hundred and twenties a Division Bench of the Madras High Court (Waller and Cornish, JJ.) made a suggestion (In Re Goriparthi Krishtamma, 1929 Madras Weekly Notes 881) that "a case and counter case arising out of the same affair should always, if practicable, be tried by the same Court, and each party would represent themselves as having been the innocent victims of the aggression of the other."

10. Close to its heels Jackson, J., made an exhortation to the then legislature to provide a mechanism as a statutory provision for trial of both cases by the same

Court (vide *Krishna Pannadi v. Emperor, AIR 1930 Madras 190*). The learned Judge said thus :

"There is no clear law as regards the procedure in counter cases, a defect which the legislature ought to remedy. It is a generally recognised rule that such cases should be tried in quick succession by the same Judge, who should not pronounce judgment till the hearing of both cases is finished."

Ld. Counsel submits that the above said view of the Hon'ble Supreme Court has been followed by this Court in **Phool Singh v State of Haryana, Law Finder Doc Id # 82612**.

Ld. Counsel for the petitioner submits that accordingly, in view of the aforesaid facts and legal position, the application of the petitioner (Annexure P-3) for clubbing the two FIRs is pending before the learned JMIC, Safidon, who may be directed to decide the same within time bound manner.

Ld. State counsel does not dispute the above said submissions made on behalf of the petitioner.

In view of the admitted factual and legal position as noted above, present petition is allowed and ld. JMIC Safidon is directed to decide the application (Annexure P-3) filed by the petitioner for clubbing the above mentioned two FIRs, within a period of three months from the date of receipt of certified copy of this order.

Petition stands disposed of.

10.08.2023.
Joshi

(Nidhi Gupta)
Judge