

CRM-M-42691-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(127)

CRM-M-42691-2023

DATE OF DECISION:- 29.08.2023

NARINDER KUMAR @ NINDI AND ANOTHER

...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Mansur Ali, Advocate and
Mr. Tushaar Madaan, Advocate for the petitioners.

Mr. Arun Luthra, DAG, Punjab
for the State-respondent.

SUVIR SEHGAL, J. (Oral)

1. Although, two fold prayer has been made in the instant petition, but counsel for the petitioners has confined himself to the first prayer. Petitioners have sought transfer of the trial in FIR bearing No.0030 dated 22.03.2023, Annexure P-5, registered for offences under Sections 302, 323, 148, 149, IPC, wherein offences under Section 427, 120-B and 34, IPC were added later on, at Police Station Nangal, District Rupnagar from the Court of learned Additional Sessions Judge, Rupnagar to Chandigarh or to any other Court except SAS Nagar, Mohali.

2. Brief facts may be noticed. FIR, Annexure P-5, has been registered on the statement of Baljinder Singh @ Aman, wherein he stated that he is running a crusher and had taken 65 acres of land in village Taraf Mazari, Tehsil Nangal and its sale deed had been executed a few days earlier. Mandeep Singh @ Bhoda's land is adjoining. At about 11:30 P.M. on the fateful night, he received information that Mandeep Singh @ Bhoda along with 6-7 other persons were cutting the boundary wire of his land and shouting abuses. Complainant along with his driver, Anil, Deepak Kumar and Chowkidar, Bahadur Singh, reached the spot. Mandeep Singh @ Bhoda hit complainant's *Fortuner* with his *Land Cruiser*. When the complainant and his companions alighted from the vehicle, Mandeep Singh @ Bhoda hit Anil with his vehicle and he fell down. There was a commotion and the complainant saw that Mandeep Singh @ Bhoda hit on the head of Anil with a stick and Narinder Kumar @ Nindi inflicted injuries on complainant's associates. Fearing for his life, complainant sped from there and he later came to know that Mandeep Singh @ Bhoda and Narinder Kumar @ Nindi had taken his driver, Anil, from there, who subsequently died due to the injuries sustained by him. The cause of the grudge was complainant's land is adjacent to that of Mandeep Singh @ Bhoda and he wanted the complainant to leave.

3. Counsel for the petitioners has argued that the petitioners have been falsely implicated and on their representation, investigation was transferred to an ASP. It has been submitted that they moved applications before the Judicial Magistrate for monitoring of the

investigation. Counsel submits that Dev Raj, father of petitioner No.1, filed a petition before this Court for direction that the investigation be transferred to the CBI, which is pending and this Court by order dated 30.05.2023, Annexure P-12, while directing the DGP to depute an officer of the rank ADGP to file a status report, restrained the official respondents from presenting the challan. Counsel submits that the complainant approached the Supreme Court and by order passed on 19.06.2023, Annexure P-13, the Hon'ble Supreme Court granted liberty to the State to present the challan in accordance with law. Counsel submits that the challan, Annexure P-17, came to be presented on 20.06.2023. Counsel submits that the petitioners have filed a separate petition seeking stay of further proceedings, which is pending. He has urged that the transfer of trial is being sought as official respondents No.2 to 4 openly interfered with the investigation of the FIR and the challan has been presented by the SHO, Nangal, who is not the Investigating Officer. He submits that the challan has been presented in a hurried manner so as to defeat the right of the petitioners to seek default bail and the investigation has been carried out in a lopsided manner to help the complainant. Arguments have also been addressed on the merits of the allegations and an apprehension has been expressed that on the basis of the investigation report, charges are likely to be framed against the petitioners as the matter has been committed to the Sessions Court.

4. Prayer in the petition has been opposed by the counsel for the State.

5. Counsel for the parties have been heard.

6. Having considered the submissions made, this Court is of the view that the apprehension entertained by the petitioners that the trial of the case at Rupnagar may not be fair is misplaced and cannot be accepted. Concededly, final report has been presented before the Magistrate after the stay order was vacated by the Supreme Court. Proceedings have been committed to the Sessions Court and are pending before it for consideration on framing of charge on 08.09.2023. The Court is yet to evaluate the material collected by the investigating agency and the accused-petitioners will also have ample opportunity to assist the Court. Merely on the basis of apprehension that charge is likely to be framed against the petitioners for serious offences and may not get a fair trial, they cannot seek transfer of the trial. The apprehension expressed by the petitioners is unfounded and does not deserve any credence.

7. Petition, which is not even supported with an affidavit as is the mandate of Section 407(3), Cr.P.C., being bereft of merit, is hereby dismissed.

8. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

29.08.2023
Kamal

(SUVIR SEHGAL)
JUDGE

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