

CRM-M-46423-2016 (O & M)

2024:PHHC:112915



::1::

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-46423-2016 (O&M)

Reserved on :30.08.2024

Date of Pronouncement:31. 08.2024

Anil Kumar

... Petitioner

Versus

State of Haryana and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. H.S. Randhawa, Advocate as Amicus Curiae,
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order framing charges dated 22.03.2016 and charge sheet dated 22.03.2016 (Annexure P-5 colly) of the Chief Judicial Magistrate, Jhajjar in case FIR No.1079 dated 30.10.2015 under Sections 420, 467, 468, 471 IPC registered at Police Station Jhajjar, District Jhajjar (Annexure P-1) and all other subsequent proceedings arising therefrom.

2. The brief facts of the case are that FIR No.196 dated 21.03.2015 under Sections 409, 420 IPC, Police Station Jhajjar, District Jhajjar came to be registered against the petitioner with respect to certain allegations. In the said case, charges stand framed and the Trial is near completion.



3. During the course of investigation of the aforementioned case, certain other illegalities were found to have been committed leading to the registration of the instant FIR bearing FIR No.1079 dated 30.10.2015 under Sections 420, 467, 468 and 471 IPC, Police Station Jhajjar, District Jhajjar (Annexure P-1) in which the report under Section 173(2) Cr.P.C. stood submitted on 29.02.2016.

4. Charges stood framed and charge sheet filed vide order dated 22.03.2016 (Annexure P-5 colly).

5. Without impugning the order framing charges (Annexure P-5), a petition bearing No. CRM-M-11912-2016 for quashing of the FIR and the report under Section 173(2) Cr.P.C. was filed and notice of motion was issued on 06.04.2016.

6. Thereafter, the instant petition bearing CRM-M-46423-2016 was filed for quashing of the order framing charges dated 22.03.2016 (Annexure P-5) which was ordered to be heard with the first petition i.e. CRM-M-11912-2016 vide orders dated 09/10.01.2017. These matters have been pending ever since.

7. As no proper assistance was being rendered by the counsel for the petitioner, on 12.08.2024, this Court appointed Mr. H.S. Randhawa, Advocate as amicus curiae to assist this Court.

8. The learned amicus curiae states that the petitioner has suppressed material facts before this Court and has, in fact, played fraud upon it. The first petition was filed for the quashing of the FIR (Annexure

2024:PHHC:112915



CRM-M-46423-2016 (O & M)

::3::

P-1) and the report under Section 173(2) Cr.P.C. (Annexure P-2) and came up for hearing on 06.04.20216. However, it was not disclosed to the Court that charges stood framed against the petitioner vide order dated 22.03.2016. On the other hand, the petitioner filed the instant second petition bearing No.CRM-M-46423-2016 challenging the order framing charges. In view of the conduct of the petitioner, the present petition was liable to be dismissed. Reliance is placed upon the judgment in ***‘Moti Lal Songara versus Prem Prakash @ Pappu and another (Criminal Appeal No.785 of 2013, arising out of SLP (Crl.) No.294 of 2013 decided on 16.05.2013)’***.

9. He further contends that as per the report of the Trial Court, right from the year 2017, the petitioner had sought adjournments stating that the matter was pending before this Court without there being any interim order interdicting the Trial. Because of this fact, despite the FIR being of the 2015, the proceedings were not taking place and no prosecution evidence had been recorded. He, therefore, contends that this was yet another reason for which the present petition was liable to be dismissed.

10. The learned counsel for the State has supported the case of the amicus curiae submitting that the petitioner had indeed played a fraud with the Court and therefore, the present petition was liable to be dismissed.

2024:PHHC:112915



CRM-M-46423-2016 (O & M)

::4::

11. I have heard the learned amicus curiae and the learned counsel for the State.

12. A sequence of the events narrated above leave no doubt in the mind of the Court that the petitioner has played a fraud with the Court by suppressing the material facts. The first petition was filed seeking quashing of the FIR (Annexure P-1) and the report under Section 173(2) Cr.P.C. (Annexure P-2). However, charges already stood framed on 22.03.2016 prior to the filing of the first petition. As no interim order of stay of proceedings was passed, the instant second petition was filed impugning the order framing charges. Further, the petitioner has sought adjournments before the Trial Court referring to the pendency of the petitions because of which no prosecution witness has been examined till date. Apparently, the conduct of the petitioner is reprehensible.

13. In view of the above, I find no merit in the present petition and the same stands dismissed.

14. The Trial Court is directed to proceed with the Trial forthwith and conclude the same within a period of 03 months from the next date fixed before it.

(JASJIT SINGH BEDI)
JUDGE

August 31, 2024
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No