

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

124

2024:PHHC:027765

CRM-M-32430-2023

Date of decision: February 27, 2024

DR. MUKESH GARG AND ANOTHER

...Petitioners

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Govind Mor, Advocate
for the petitioners.

MANJARI NEHRU KAUL, J.

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of the impugned order dated 28.03.2023 (Annexure P-4) passed by the learned Sessions Judge, Sirsa, vide which the application dated 19.12.2022 (Annexure P-3) for dismissal of revision petition (Annexure P-2) against acquittal judgment dated 04.10.2019 (Annexure P-1) was dismissed, with a further prayer to stay the operation of the impugned order dated 28.03.2023 (Annexure P-4) passed by the learned Sessions Judge, Sirsa and further proceeding pending before the learned Sessions Judge, Sirsa.

2. Learned counsel for the petitioners submits that application dated 19.12.2022 filed by the petitioners has been erroneously dismissed by the learned trial Court in complete disregard of the settled law.

3. It has been further submitted that initially, a complaint was lodged against the petitioners by the complainant in the year 2019, which was totally frivolous and an abuse of the process of law. The learned trial Court, finding lots of discrepancies in the testimony of the complainant, had thus dismissed the said complaint and discharged the petitioners under Section 245 Cr.PC vide order dated 04.10.2019.

4. Learned counsel further submits that aggrieved by the order dated 04.10.2019, the complainant challenged it before the Revisional Court vide CRR-74-2020; at the first instance, the petitioner objected to the maintainability of the said revision and filed the application in question praying for dismissal of the revision petition. It has been argued that the law was squarely settled that to challenge the acquittal of the petitioner, the only remedy available to the complainant would have been to file a Leave to Appeal under Section 378(4) of the Cr.P.C. before this Court. In support, learned counsel has relied upon the judgment rendered by this Court in ***Criminal Revision No.2308 of 2003*** titled as ***Mander Singh and others versus Ladi***.

5. I have heard learned counsel for the petitioner and perused the relevant material placed on record.

6. This Court does not find any merit in the submissions made by the learned counsel for the petitioner *qua* the non-maintainability of the revision petition filed by the complainant before the Court below. Learned counsel has not disputed that the petitioners were facing trial in a Warrant's case instituted upon a private complaint under Sections 323, 506 and 34 IPC and had been discharged under Section 245 of the Cr.P.C. Had the petitioner been facing trial in a Summon's case, it would have been an altogether different matter. Without

any specific legislative import, discharge under Section 245 of the Cr.P.C. cannot be construed to imply acquittal in a Warrant’s case. Rather, the law in this regard is fairly settled that an order of discharge, not being an interlocutory order, is amenable to the revisional jurisdiction of a Court under Section 397 of the Cr.P.C. The case law relied upon the learned counsel for the petitioner would not come to his rescue as the accused therein had been called to face trial in a Summon’s case. In the facts and circumstances as enumerated hereinabove, no ground is made out to accept the prayer of the petitioners.

7. The petition stands dismissed.
8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

February 27, 2024
Jaspreet Kaur/Sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No