



CRM-M-36524-2024

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

CRM-M-36524-2024

Date of Decision: 01.08.2024

Maninderjit Singh

..... Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ashish Soi, Advocate for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing of order dated 07.05.2024 passed by learned JMIC, Jagroan summoning the petitioner in complaint case COMI No.12 of 2014.

2. It has been contended by learned counsel for the petitioner that FIR No.193 dated 14.11.2011 under Sections 323/324/506/148/149 IPC was lodged by respondent No.2-complainant against the petitioner and other accused on the basis of false and frivolous allegations. He submits that firstly an FIR was lodged and thereafter, a complaint was filed as an afterthought by respondent No.2-complainant. He further submits that a cross version was also lodged vide DDR No.20 dated 14.11.2011. He submits that on the investigation in the FIR case, the Investigating Agency finding no truth in the same, prepared a cancellation report dated 25.09.2013. He submits that on filing the cancellation report, learned JMIC, Jagraon vide order dated 29.01.2015 accepted the same. He has submitted that the acceptance of the cancellation report by JMIC, Jagraon was assailed by respondent No.2-complainant by way of filing of revision petition before learned Additional Sessions Judge, Ludhiana. After hearing both the sides,



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learned Revisional Court accepted the same and remanded the case to learned trial Court for its reconsideration after taking into consideration the MLR of the complainant. It is submitted that the petitioner and other accused approached this Court by way of filing of CRM-M-35435-2016 and this Court vide order dated 03.10.2016 had stayed the further proceedings. He submits that despite there being cancellation report twice, learned trial Court had summoned the petitioner vide impugned order dated 07.05.2024. It is submitted that the summoning of the petitioner is unsustainable in the eyes of law as the trial Court had failed to appreciate that there was no specific role assigned to the petitioner in the FIR. He submits that in the cross-version as well, the petitioner was neither aggressor nor the victim. He submits that there were material contradiction between the stand taken by the complainant in the FIR and in the complaint filed after the cancellation of the FIR. It is submitted that learned trial Court totally in ignorance of the evidence on record had summoned the petitioner in a cavalier manner. He relies upon the judicial precedents of Hon'ble Supreme Court in Pepsi Foods Ltd. and another vs. Special Judicial Magistrate and others, 1998 SCC 1400 and G. Sagar Suri vs. State of UP, 2000 CriLJ824. It is further contended by learned counsel for the petitioner that the petitioner and respondent No.2 had earlier approached this Court by way of filing CRM-M-35435-2016 and CRM-M-54381-2018 respectively, which were heard together by this Court and disposed of vide order dated 23.08.2023. He submits that thus, the summoning order is totally in violation of the directions given by this Court while disposing of the both these petitions.

3. Heard.



4. After hearing learned counsel for the petitioner and perusing the record, it is apparent that respondent No.2-complainant lodged FIR No.193 dated 14.11.2021 against the petitioner. After the investigation, the Investigating Agency filed a cancellation report, however, the same was returned. Thereafter, the Police against prepared cancellation report in the said FIR and by a joint order dated 29.01.2015, learned JMIC, Jagraon accepted the cancellation report filed by the Police in the FIR case and dismissed the complaint filed by the complainant against the accused persons, which was assailed by respondent No.2-complainant by way of filing revision petition before learned Additional Sessions Judge, Ludhiana. After hearing both the sides, learned Additional Sessions Judge, set aside the order dated 29.01.2015 vide order dated 01.08.2016 by directing the trial Court to look into the matter from the aspect of evidence led by the complainant in his preliminary evidence. Thereafter, the trial Court after rehearing both the sides, summoned the petitioner vide order dated 07.05.2024. As evident from the record, the petitioner and respondent No.2 had earlier approached this Court by way of filing of CRM-M-35435-2016 and CRM-M-54381-2018 respectively, which were disposed of by this Court vide order dated 23.08.2023. On appreciation of the preliminary evidence led by the complainant, it is evident that Dr. Hitesh Arora was examined as CW-2, who found three injuries suffered by the complainant. The petitioner had been alleged to have given a sword blow on the head of the complainant. In all five witnesses were examined during the preliminary evidence conducted before the trial Court. Learned Magistrate on appraisal of the record found a *prima facie* case against the accused, namely,



Muninderjit Singh (petitioner), Sher Singh, Gurbinder Singh, Sardara Singh, Gurwant Singh and Didar Singh, whereas, found no *prima facie* case against Ranjit Singh, China Singh, Gurcharan Singh and Prabhjot Singh and thus, they were exonerated and the petitioner alongwith co-accused as mentioned above were summoned.

5. In all its humility, there is no dispute regarding law settled by Hon'ble Supreme Court in the cases relied upon by learned counsel for the petitioner. However, it is a settled proposition of law that at the time of summoning the accused, the trial Court is to see whether a *prima facie* case for summoning the accused is made out or not. The preliminary evidence is to be evaluated at this stage. Learned trial Court found sufficient material for proceeding against all the accused including the petitioner, whereas, there being no sufficient material against other accused, they were exonerated.

6. In the considered opinion of this Court, there is no infirmity in the impugned order passed by the trial Court and thus, the present petition being devoid of any merit, is hereby dismissed. However, it is being clarified that this Court has not expressed any opinion on the merits of the case. The petitioner would be at liberty to take all his defence pleas as available to him during the trial and the trial Court would deal with the same in accordance with law.

(RAJESH BHARDWAJ)
JUDGE

01.08.2024
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No