

CRM-M-40729-2023
Date of decision: 29.01.2024

...PETITIONER

...RESPONDENTS

3. Learned counsel for the petitioner submits that the FIR has been registered on false and frivolous allegations levelled by the complainant at the behest of one Amita Sharma, who is local Journalist against whom multiple FIRs

CRM-M-40729-2023**-2-**

have been registered. He further submits that said Amita Sharma has also filed similar complaints against various other persons.

4. Vide order dated 21.08.2023, this Court passed the following order:-

"Strangely, in the present case though there were no proceedings pending before this Court on 31.05.2023 as the petition (CRM-M-23758- 2023) for quashing of the FIR stood withdrawn by the petitioner on 12.05.2023, on 31.05.2023 the case has been adjourned by the Court below on the ground that no further orders have been received from the High Court. Learned counsel for the State has pointed out that from 04.01.2020 the case is fixed for arguments on charge, however, till date despite there being no stay in any proceedings from this Court, the matter is not progressing. Before the present petition can be entertained, let a report be submitted by the Court concerned about the above-noted facts. List on 15.09.2023."

5. In compliance of the above said order, a report dated 13.08.2023 was filed by the Court of learned Chief Judicial Magistrate, Jalandhar, wherein, it was submitted that the proceedings for framing of charge were delayed earlier due to Covid-19 Pandemic and later on, due to bonafide mistake, the case was being adjourned repeatedly for awaiting order of the Hon'ble High Court, in case No. CRM-M-6213-2020, as the detailed order of the Hon'ble High Court was not being uploaded being covered under the restrictive category.

6. Vide order dated 15.09.2023, the State was directed to seek instructions regarding the report sent by the Court of learned Chief Judicial Magistrate, Jalandhar on 13.08.2023. It was specifically mentioned that charges were delayed earlier due to Covid-19 Pandemic and the next date of hearing was fixed for 18.09.2023.

7. Reply by way of affidavit of Harjinder Singh (PPS), Assistant Commissioner of Police (Model Town), Police Commissionerate, Jalandhar on

CRM-M-40729-2023

-3-

behalf of respondent No.1-State was filed on 17.11.2023 and the same was taken on record. The relevant para No.3 reads as under:-

"That the present petition of the petitioner is not sustainable or maintainable in the eyes of law as the aforementioned FIR No.176 dated 23.08.2018 (P-1) has been rightly registered against the petitioner at Police Station Division No.7, Police Commissionerate, Jalandhar. It is further submitted that after completion of the investigation of the present case, the challan/charge-sheet (P-6) was presented in the learned trial Court on 01.04.2019. It is further submitted that the charges have been framed against the petitioner by the learned trial Court vide order dated 20.09.2023. Now, the present case is fixed for 04.12.2023 for prosecution evidence. Hence, the present petition of the petitioner is liable to be dismissed in the interest of justice."

8. A perusal of the abovementioned para 03 of reply filed by Harjinder Singh (PPS), Assistant Commissioner of Police (Model Town), Police Commissionerate, Jalandhar shows that he has signed the reply without properly reading it wherein, it has been stated that the charge-sheet was presented in the learned trial Court on 01.04.2019. This reply falsifies the report sent by the Court of learned Chief Judicial Magistrate, Jalandhar on 13.08.2023.

9. Vide order dated 12.05.2023, the previous petition under Section 482 Cr.P.C filed by the petitioner for seeking quashing of FIR No.176 dated 28.08.2016 under Sections 452/354/323 & 34 IPC, 1860 was dismissed as withdrawn on the ground of the statement made by State counsel that the charges stand framed. The petitioner then filed an application for recalling of order dated 12.05.2023 passed in CRM-M-23758-2023 on the ground that charges were not framed on the date when the petition under Section 482 Cr.P.C was dismissed as withdrawn. This Court dismissed the same application for recalling the order dated 12.05.2023 on the ground that there is no power with this Court to review its

maintainable, therefore, the petitioner filed the present petition under Section 482 Cr.P.C. It was because of the poor assistance given to the State counsel and because of filing affidavits stating wrong facts that the petitioner had filed this third petition for quashing of FIR No. 176 dated 23.08.2018 under Sections 452/354/323 & 34 IPC, 1860, registered at Police Station-Division No.7, Police Commissionerate, Jalandhar, District Jalandhar.

10. Learned State counsel submits that the charges in the present case have been framed against the petitioner by the learned trial Court vide order dated 20.09.2023 and the case is fixed for prosecution evidence on 20.03.2024. Since, the trial is going on after framing of charges, therefore, at this stage, this Court does not find any merit in the present petition, hence, the same is dismissed.

11. Since, the Assistant Commissioner of Police (Model Town), Police Commissionerate, Jalandhar, who filed reply, did not even think it appropriate to peruse the same before signing it, the State is directed to pay the costs of Rs.10,000/- to the petitioner for filing wrong affidavit stating wrong averments because of which the present petitioner had to file the third petition for quashing of FIR.

12. All pending applications, if any, stands disposed of.

29.01.2024

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(SUDEEPTI SHARMA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No