



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

CRM-M-49133-2024
Date of decision: 01.10.2024

Vikram Vinayek @ Vikram Vinayak ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Kunal Vinayak, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The counsel for the petitioner *inter alia* submits that the petitioner who is facing trial in criminal case having FIR No.147 dated 24.03.2022 under Sections 336 and 506 IPC, registered at Police Station Gurugram Sadar, District Gurugram, is not of stable mind and his case is covered under Sections 328 and 329 Cr.P.C. It is further submitted that the learned trial Court without invoking provision of Section 328 Cr.P.C, framed charges against the petitioner and now trial has commenced. The counsel for the petitioner while referring to medical record Annexure P-3 (collectively) submits that the petitioner is not mentally sound and without ascertaining the mental status of the petitioner, the trial Court cannot go ahead with the trial, in violation of the provisions of Sections 328 and 329 Cr.P.C.

2. Notice of motion.

3. Mr. A.K. Sehrawat, DAG, Haryana accepts notice on behalf of the State and submits that the plea regarding his unsound mind was not



taken by the petitioner before the trial Court. It is further submitted that the FIR in question cannot be quashed just on the ground of allegations that petitioner is not of mentally sound mind. It is further submitted that burden to prove the mental in-capacity of petitioner is on the defence and the same cannot be determined in the present petition.

4. Faced with this situation, the counsel for the petitioner made prayer that he be allowed to withdraw the present petition at this stage with liberty to raise all the pleas taken in the present petition before the trial Court at the relevant stage of trial. However, counsel for the petitioner further made request that the trial Court be directed to hold an inquiry to assess the mental in-capacity of the petitioner as per mandate of Sections 328 and 329 Cr.P.C, before moving ahead with the trial.

5. In light of the above, the present petition is hereby dismissed as withdrawn with aforesaid liberty. Further, it is directed that the trial Court should firstly make assessment regarding mental condition of the petitioner by getting him examined by the Board of Doctors constituted by the Civil Surgeon concerned, before proceeding further in the trial. The parties are directed to appear before the trial Court on the date already fixed in the trial. However, it is made clear that any observation made herein above is not to be construed as an expression of opinion on the merits of the case.

01.10.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No