



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

CRM-M No.60253 of 2022
Date of decision: 8th May, 2024

Deepak Dogra

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Preetinder S. Ahluwalia & Mr. Jaiveer Singh,
Advocates for the petitioner.

Mr. Shiva Khurmi, Asst. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The prayer in the present petition under Section 482 Cr.P.C. is for setting aside the order dated 13.09.2022 (Annexure P-4) whereby the charges were framed against the petitioner as well as for setting aside the order dated 27.09.2022 (Annexure P-8) vide which the application under Section 216 Cr.P.C. moved by the petitioner for alteration of charges was dismissed; further a prayer has also been made for setting aside of separate two orders dated 22.11.2022 whereby the revision petitions filed by the petitioner against the order framing charge as well as revision petition filed against the dismissal of application under Section 216 Cr.P.C. were dismissed by the Additional Sessions Judge, Ludhiana.

2. Learned counsel for the petitioner has argued that he was in custody at that time and hence, he was denied a meaningful opportunity



to peruse the documents provided under Section 207 of the Cr.P.C. on 13.09.2022. Referring to the order framing charges, dated 13.09.2022 (Annexure P-4), it has been contended that despite the petitioner being in custody, the trial Court hastily framed charges against him, disregarding his right to a fair trial under Section 207 of the Cr.P.C. He has further submitted that the essence of Section 207 Cr.P.C. mandates that documents collected against an accused be furnished to him before the trial commences, allowing for adequate preparation of his defence; additionally, as per Section 228 of the Cr.P.C., before recording the plea of the accused, the accused must be given an opportunity to respond to the offences he is charged with. In the absence of any such opportunity given to the petitioner to examine the documents and present his case at this juncture, coupled with the subsequent failure to provide a reasonable chance to be heard, it not only violates procedural fairness but also undermines judicial integrity. While placing reliance upon **‘Sanjay Kumar Rai versus State of Uttar Pradesh & Anr. 2021 (2) RCR (Criminal) 813’**, **‘Tarun Tyagi versus Central Bureau of Investigation, 2017(2) RCR (Criminal) 85’**, **‘Idukkan versus The Inspector of Police, B-2 Esplanade Police Station, Cheenai, 2014(10) RCR (Criminal) 394’**, **‘The State of Bihar versus Md. Major 2022(3) Crimes 247’**, it has been contended that reasonable time should have been granted to the petitioner before framing charges. Moreover, it has been pointed out that the learned trial



Court chose to recuse itself, which if at all, should have been done on the first date itself, i.e. 13.09.2022, when the charges were framed. Even subsequent to this, the application under Section 216 Cr.P.C. filed by the petitioner was summarily dismissed on 27.09.2022 without proper consideration or opportunity to the petitioner to be heard.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, does not dispute the fact that the trial Court framed charges on the very day itself, when all the material under Section 207 Cr.P.C. was supplied to the accused.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. After examining the material on record, it stands revealed that following the presentation of challan in the present case on 29.04.2022, the documents under Section 207 Cr.P.C. were supplied to co-accused Chetan on 05.07.2022; the jail authorities failed to produce the petitioner on as many as 7 dates before the Court concerned. The petitioner was subsequently produced before the trial Court, by the jail authorities on 13.09.2022, and on the same date, a copy of the final report was supplied to him. Thereafter, the trial Court went on to hastily frame charges against both the accused on the same day.

6. In the light of the foregoing, without delving into the merits of the case, this Court finds merit in the submissions made by the learned counsel for the petitioner. It is evident from the record that the

charges were indeed hastily framed on the very day when the documents were supplied to the petitioner under Section 207 of the Cr.P.C. This action not only disregards the right of the petitioner to a fair trial but also contravenes the procedural safeguards enshrined in law.

7. Therefore, in the interest of justice, this Court deems it appropriate to remand the matter back to the trial Court for reconsideration on the charges, ensuring that the petitioner’s rights are adequately protected, and due process is followed. It is imperative that the trial Court affords an opportunity to the petitioner to examine the documents supplied under Section 207 Cr.P.C. and to present his case effectively, before proceeding further.

8. The petition stands disposed off accordingly.

9. 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.

(MANJARI NEHRU KAUL)
JUDGE

May 8, 2024
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No