



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-63682-2023 (O&M)

Date of Decision: 09.08.2024

Gurmeet Singh

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Ashish Bakshi, Advocate for the petitioner.

Ms. Rishu Madan, Assistant Advocate General, Punjab.

Mr. Deep Inder Singh Walia, Advocate for respondent No.2.

NIDHI GUPTA, J. (ORAL)

Prayer in the present petition under Section 482 Cr.P.C. is for quashing of order dated 20.11.2023 (Annexure P-4) passed by learned Judicial Magistrate 1st Class, Ludhiana in case titled as ‘*State vs. Gurmeet Singh*’ whereby application under Section 216 Cr.P.C. has been allowed.

On 21.02.2024, following order was passed by this Court:-

“Learned counsel for the petitioner, inter alia, submits that vide the impugned order dated 20.11.2023 (Annexure P-4), charge under Section 406 IPC has been added in the FIR (Annexure P-1) against the petitioner. Learned counsel further submits that the petitioner was married to the complainant on 13.02.2009. Two daughters were born out of their wedlock, who are in care and custody of the complainant. It is submitted that on the basis of complaint made by the wife of the petitioner, FIR No.09 dated



*19.01.2018 registered under Section 498-A IPC at Police Station Women Cell, Ludhiana (Annexure P-1) was registered against the petitioner thereafter, after four years of commencement of trial, the prosecution had filed an application dated 30.10.2023 (Annexure P-2) under Section 216 Cr.P.C. praying for alteration/addition of charge. Learned counsel relies upon the judgment of Allahabad High Court in **Nanhey Bhaiya @ Nanhan Singh and 2 others versus State of U.P and another, 2023 0 Supreme (All) 562** to submit that under Section 216 Cr.P.C., the Court on its own accord may alter the charges, however, an application of such nature cannot be made by the prosecution side.*

Notice of motion.

Mr. Kunwarbir Singh, AAG, Punjab, accepts notice on behalf of the respondent-State and seeks time to file detailed reply in the matter.

Learned counsel for the petitioner submits that the next date before the trial Court is 04.03.2024 and prays that the matter be adjourned beyond the date fixed by this Court.

Ordered accordingly.

Adjourned to 09.08.2024. ”

Learned counsel for respondent No. 2 vehemently counters the above submissions made on behalf of the petitioner as noted in the order. It is submitted by learned counsel for respondent No. 2 that the petitioner has directly approached this Court without first availing remedy of revision petition before the learned Sessions Court.

At this stage, learned counsel for the petitioner submits that he may be permitted to withdraw the present petition with liberty to avail alternate remedy in accordance with law.



Permitted to do so.

Dismissed as withdrawn, at this stage, with liberty as above.

Pending application, if any, stands disposed of.

09.08.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

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