

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

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CRM M-2380 of 2024

Date of Decision: 18.01.2024

Abhishek Sapehiya

...Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Sunil Agnihotri, Advocate
for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to direct the police authorities to further investigate the FIR No.63 Dated 23.07.2022, under Sections 279, 304-A, 427 of IPC, registered at Police Station Talwara, District Hoshiarpur as the petitioner has been falsely involved by the complainant by colluding with the local police.

2. Learned counsel for the petitioner contends that as per the case of the complainant, the driver of XUV 500 vehicle of black colour had hit the backside of the motorcycle, which was driven by brother of the complainant and due to this, Ankur Sharma had died in the said accident. Learned counsel further contends that the petitioner was wrongly involved by the police in the present case. In fact, the petitioner is a young boy, having a professional degree and has been roped in this case without any evidence against him. He was never

called by the police and was never associated during the course of investigation. He further contends that the police has presented the challan before the concerned Court, without conducting the fair investigation in the present case. Learned counsel has further relied upon the law laid down by the Hon'ble Supreme Court in the matter of **"Devendra Nath Singh Vs. State of Bihar and others" 2022 AIR (Supreme Court) 5344**, to contend that even after the presentation of challan, this Court has powers to transfer the investigation and also prayed for further investigation in the present case.

3. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner as well as Sahil Dadwal were joined the investigation in the present case. As per him, Sahil Dadwal had moved an application with regard to false involvement in the present case and a detailed inquiry was conducted in the facts and circumstances of the instant case and it was found that the present petitioner was the real accused in the present case. Learned State counsel further submits that after completion of the investigation, the final report under Section 173 Cr.P.C. has already been presented before the competent Court and charge has already been ordered to be framed against the present petitioner. He further contends that the petitioner is at liberty to lead his evidence before the trial Court.

5. I have heard learned counsel for the parties and perused the record.

6. After hearing the rival submissions made by learned counsel for both the parties and perusing the record, this Court is of the considered opinion that the present petition deserves to be dismissed.

7. In the present case, after associating the petitioner as well as Sahil Dadwal, the investigation of the present case was conducted by the police. The petitioner as well as the other witnesses were joined by the police during the course of investigation and after completion of the investigation, the final report under Section 173 Cr.P.C. has already been presented before the competent Court and after finding a *prima-facie* case against the present petitioner, charge has already been ordered to be framed against the present petitioner. No doubt, the petitioner is competent to invoke the extra ordinary jurisdiction of this Court under Section 482 Cr.P.C. to pray for further investigation in the present case, however, a similar prayer could be made before the trial Court under Section 173(8) Cr.P.C./156(3) Cr.P.C. However, no such prayer was made before the trial Court and the trial Court found that there was sufficient evidence on record to show *prima facie* that the petitioner had committed the offence and accordingly charge was ordered to be framed against the present petitioner.

8. Apart from that, in the present case, the petitioner has alleged that the challan has been presented without conducting fair investigation and the relevant queries/record has been overlooked by

the police in the present case. However, in the petition, the petitioner has failed to explain the pleas/material, which had been overlooked by the police while conducting the investigation. Even, the petitioner could not place on record any material before this Court to show that further investigation was required in the peculiar facts and circumstances of the present case. Thus, there is no substance in the arguments raised by the learned counsel for the petitioner.

9. The law is well settled that the power of the High Court under Section 482 Cr.P.C. has to be exercised sparingly, carefully and with caution, only where such exercise is justified by the tests laid down in the Section itself. It is well settled that Section 482 Cr.P.C. does not confer any new powers on the High Court but only saves the inherent powers which the Court possess before the enactment of the Code. There are three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code (ii) to prevent abuse of the process of Court, and (iii) to otherwise secure the ends of justice. Even otherwise, the law is well settled that the investigation of an offence is exclusively reserved for the police and police is bound to investigate the matter by strictly adhering to the provisions of Code of the Criminal Procedure. In the present case, the police investigated the matter in detail and finally a report under Section 173 Cr.P.C. has already been presented before the Court of law and the trial Court found that the offence was made out against the present petitioner. However, the petitioner could not

point out any fault or shortcoming with the investigation conducted by the police, at this stage. Thus, finding no merits, the present petition is ordered to be dismissed.

10. Needless to observe that the above observations have been made by this Court only for the limited purpose of disposal of the present petition and nothing stated herein shall be construed as an expression of opinion on the merits of the case and the trial Court shall decide the trial on the strength of the evidence led before it.

18.01.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No