

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1717 OF 2017
(Arising out of S.L.P. (Crl.) No. 1591 of 2016)

DHARAM PAL JINDAL

Appellant(s)

Versus

STATE OF PUNJAB AND ANOTHER

Respondent(s)

O R D E R

Heard learned counsel for the parties.

Leave granted.

Vide the impugned order, the High Court has quashed the first information report. Though the charge sheet has been filed, the material in the charge sheet has not been referred by the High Court.

The High Court, in the impugned order, has given a finding that there is nothing material in the first information report against the petitioner (respondent No.2 herein). The relevant part of the impugned order reads as under :-

"The perusal of the record, specially the FIR shows that the allegations regarding

cheating etc. are not against the present petitioner R.K. Sharma @ Rajesh Kumar Sharma. He has no concern with the dealing of complainant with accused No.1 to 4 regarding sale of sheets etc. In the FIR, it is only stated that the present petitioner had come with other four accused to the complainant's shop. There is no allegation that present petitioner is to pay any money or having any deal or he prepared any cheque or snatched the cheque. There is also nothing in the FIR that any specific threat has been given by the present petitioner. There is also nothing in the FIR that any offence under Section 323 IPC is committed. The present petitioner has no concern with the dealing of complainant with other co-accused.

Therefore, from the perusal of the FIR itself, it is clear that no offence is made out against the present petitioner and there is no allegation regarding committing of any offence of cheating etc. by the present petitioner and filing of the challan is nothing but abuse/misuse of process of law. In the present case, challan has been presented but the charges have not been framed so far."

After reading the FIR, there are omnibus

allegations against respondent No.2 as well as others.

The reading of FIR by the High Court cannot be said to be correct. The High Court has not discussed the other material on record in the charge sheet.

In view of the aforesaid, we set aside the order passed by the High Court and leave it open to respondent No.2 to raise the questions at the stage of framing of the charge.

In case such an application is filed for discharge, it shall be decided uninfluenced by the order passed by the High Court or by this Court.

The appeal is, accordingly, disposed of.

.....J.
(ARUN MISHRA)

.....J.
(MOHAN M. SHANTANAGOUDAR)

New Delhi;
October 03, 2017

ITEM NO.44

COURT NO.9

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No. 1717 of 2017 @ Petition(s) for Special Leave to Appeal (Crl.) No(s). 1591/2016

(Arising out of impugned final judgment and order dated 02-12-2015 in CRM No. 6545/2014 passed by the High Court Of Punjab & Haryana At Chandigarh)

DHARAM PAL JINDAL

Petitioner(s)

VERSUS

THE STATE OF PUNJAB & ANR.

Respondent(s)

Date : 03-10-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s)

Mr. Himanshu Gupta, Adv.

Mr. Anil Kumar Tandale, AOR(Not present)

For Respondent(s)

Mr. D.K. Bhatti, Adv.

Mr. Chitta Ranjan Mishra, Adv.

Mr. Bhanu Pratap Singh, Adv.

For Mr. Binay Kumar Das, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

(SUKHBIR PAUL KAUR)
AR CUM PS

(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER

(Signed order is placed on the file)