
(1960) 09 P&H CK 0014

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 573 of 1960

Comrade Makhan Singh

APPELLANT

Vs

Ranjit Singh and Another

RESPONDENT

Date of Decision : 15-09-1960

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 526
Penal Code, 1860 (IPC) — Section 182

Citation : AIR 1961 P&H 170 : (1961) CriLJ 552

Hon'ble Judges : J.S. Bedi, J

Bench : Single Bench

Advocate : Balbir Singh Bindra, for the Appellant; Harbans Singh Doabia, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

J.S. Bedi, J.—Makhan Singh Petitioner who is being prosecuted u/s 182, Indian Penal Code, in the Court of Shri H.L. Mehra, Magistrate 1st Class, Amritsar, has moved! this Court u/s 526, Criminal Procedure Code, for the transfer of his case to the Court of the Sessions Judge, Amritsar, alleging that the subject-matter of the complaint relates to the death of one Sita Ram in the custody of the police of Police Station Jandiala, District Amritsar, that several organisations including Congress, Jan Sangh, Akalis andl Communists, and also individuals brought the death of Sita Ram to the notice of higher authorities and demanded action against the police officials responsible for his death after high level judicial enquiry, that under the public pressure an, inquiry was ordered into the death of Sita Ram.

At the first instance the Deputy Superintendent of Police was deputed to go into the matter, whose inquiry according to the petitioner was only one sided. On the agitation by the public and the action committee consisting of representatives of all political parties including Congress, Jan Sangh and Akalis that the inquiry should be conducted" by a person of the status of a High Court Judge or a

Sessions Judge, the enquiry was then entrusted to the Additional District Magistrate, Amritsar, and that officer has submitted his report.

It is alleged that the inquiry held by the Additional District Magistrate was irregular and in utter disregard of the principles of natural justice. It is also alleged that the petitioner was one of the agitators in the above matter and it was for this reason and for his rivalry with the Chief Minister, Punjab, that a complaint has been made against him u/s 182, Indian Penal Code, by Shri Ranjit Singh, Senior Superintendent, of Police, Amritsar. It is further alleged that now the case has been entrusted to Shri H.L. Mehara, Magistrate 1st Class, and if it is feared that he will not go against the view taken by his superior, i.e. the Additional District Magistrate, who has already submitted his report.

2. It is needless for us to go into other matters. The fact, however, remains that Shri H.L. Mehra is only a First Class Magistrate and the Additional District Magistrate who conducted the inquiry earlier -happens to be senior to him. Under the circumstances the petitioner has reason to believe that Shri H.L. Mehra would not go against the findings of the Additional District Magistrate in this case.

The learned counsel for the petitioner has cited Emperor v. Adambhai Abdullabhai 44 CrILJ 71 : AIR 1942 Bom 316 which lays down that

"the High Court will not hesitate to transfer a case from a Magistrate who may be called upon in the course of the trial to differ from views expressed by his revenue superior on whose inquiry and report the case has been instituted."

Ha has also placed reliance on AIR 1942 186 (Oudh)

The principles involved in the present case fully conform to the principles enunciated above. Under the circumstances, I feel that in the interests of justice it is desirable that this case should be heard by a judicial officer senior to the Additional District Magistrate at Amritsar. Accordingly I accept the petition and direct that this case be either tried by the Sessions Judge, Amritsar, himself or by one of the Additional Sessions Judges posted there. The parties are directed to appear before the Sessions Judge, Amritsar, on the 22nd September, 1960.