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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision : 27.07.2026

VIJAY

... PETITIONER

Versus

STATE OF HARYANA AND ANOTHER

... RESPONDENT

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Balraj Gujjar, Advocate for the petitioner.

Mr. Rakesh Kumar Jangra, AAG, Haryana.

Mr. Manoj Chahal, Advocate for respondent No.2.

H.S. Grewal, J.(Oral)

1. The present petition has been filed under Section 482 Cr.P.C., seeking quashing of complaint bearing CIS No.COMI/20/2015 dated 02.01.2014 (Annexure P-5) instituted under Sections 420, 467, 471, 209 and 120-B IPC, titled as 'Vijay Kumar versus Vijay Kumar', pending before the Court of the learned Sub Divisional Judicial Magistrate, Loharu, District Bhiwani, along with the summoning order dated 07.03.2017 (Annexure P-6) whereby the petitioner was summoned to face trial under Sections 409 and 420 IPC and the judgment dated 28.07.2023 (Annexure P-7) passed by the learned Additional Sessions Judge, Bhiwani, whereby the revision petition filed against the summoning order qua the petitioner has been dismissed while qua co-accused has been accepted.



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2. The case of the prosecution is that the petitioner and the complainant were rival candidates for the post of Lambardar of Village Gothra. Initially, the petitioner was appointed as Lambardar by the Collector, Bhiwani. However, the said appointment was set aside by the Commissioner, Hisar Division, on 07.08.2009 and the matter was remanded for fresh consideration. Thereafter, the petitioner's revision before the Financial Commissioner also came to be dismissed. It is alleged that despite losing his entitlement to continue as Lambardar after the orders passed by the superior revenue authorities, the petitioner, in connivance with the Naib Tehsildar, dishonestly continued to receive the Government honorarium meant for the Lambardar. According to the complainant, the petitioner knowingly projected himself as the Lambardar and obtained Government money to which he was not legally entitled, thereby causing wrongful loss to the State exchequer. It is further alleged that the petitioner, in conspiracy with the Naib Tehsildar, concealed the true factual position from the authorities and continued to receive the monthly honorarium by abusing his official position.

3. Learned counsel for the petitioner submits that the criminal proceedings are a misuse of the process of law and arise out of a long-standing dispute regarding the appointment of Lambardar between the petitioner and the complainant. It is submitted that the petitioner was initially appointed as Lambardar by the Collector, Bhiwani, on 01.07.2008 and continued to function as such. Although the Commissioner, Hisar vide order dated 07.08.2009 set aside the appointment and remanded the matter but the operation of the Commissioner's order was stayed by the concerned Financial Commissioner Revenue. Ultimately on 13.10.2016, the petitioner was again appointed the



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petitioner as Lambardar. It is further submitted that the petitioner never made any false representation or request before any authority for release of the honorarium. The honorarium was credited into his account by the Government authorities on their own due to administrative lapses and lack of communication between the offices concerned regarding stoppage of payment. The Tehsildar himself had informed the higher authorities that no order had been received for stopping the honorarium and had sought further instructions in that regard. It is submitted that the District Attorney, after examining the entire record, specifically opined that no offence of cheating or fraud was made out against the petitioner since he had never misrepresented any fact or induced the authorities to release the honorarium. The District Attorney recommended only recovery of the excess amount, if any, received by the petitioner. Acting upon the said opinion, the Collector ordered recovery instead of criminal prosecution. Learned counsel also submits that to show his *bona fides*, the petitioner immediately deposited the entire excess amount of ₹27,650/- in the Government Treasury on 04.03.2014. He, therefore, prays for setting aside the impugned complaint as well as the summoning order as the continuation of the criminal proceedings would amount to an abuse of the process of law.

4. *Per contra*, learned State counsel submits that the petitioner continued to receive the Government honorarium despite the order passed by the Commissioner setting aside his appointment as Lambardar. It is submitted that the petitioner was not entitled to receive the honorarium for the relevant period and, therefore, the complaint and the summoning order have rightly been passed by the learned trial Court.



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5. Learned counsel appearing for respondent No.2 submits that the petitioner knowingly continued to receive the Government honorarium despite being aware that his appointment as Lambardar had been set aside. It is submitted that the petitioner, in connivance with the concerned revenue officials, wrongfully retained the Government money and thereby caused financial loss to the State Exchequer.

6. I have heard learned counsel(s) for the parties and perused the material available on record.

7. It is apparent from the record that the petitioner was initially appointed as Lambardar of Village Gothra by the Collector, Bhiwani vide order dated 01.07.2008 (Annexure P-8). Although the said appointment was set aside by the Commissioner, Hisar Division, vide order dated 07.08.2009 (Annexure P-9) and the matter was remanded for fresh consideration but the operation of the said order was stayed by the Financial Commissioner, Haryana during the pendency of the revision petition preferred by the petitioner. Consequently, the petitioner continued to function as Lambardar during the said period. Although the revision petition was ultimately dismissed on 13.07.2011 but the matter was again considered by the Collector in pursuance of the remand order and, after evaluating the comparative merits of the candidates, the petitioner was once again appointed as Lambardar vide order dated 13.10.2016 (Annexure P-12). Thus, it cannot be said that the petitioner was never entitled to hold the office of Lambardar.

8. Moreover, there is no incriminating material to show that the petitioner had either submitted any application or made any representation seeking release of the honorarium after dismissal of his revision petition. The



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material on record rather indicates that the honorarium continued to be credited into his account due to an administrative lapse and lack of communication between the concerned revenue authorities. In fact, the Tehsildar, Loharu himself informed the higher authorities that no order directing stoppage of the honorarium had been received and sought clarification regarding further disbursement. Significantly, the District Attorney, after examining the entire record, opined that no offence of cheating or fraud was made out against the petitioner, as there was no misrepresentation or dishonest inducement on his part, and recommended only recovery of the excess amount.

9. It is also relevant to note that immediately upon being directed, the petitioner deposited the entire excess amount of ₹27,650/- in the Government Treasury on 04.03.2014. Therefore, there is nothing on record to *prima facie* establish that the petitioner dishonestly induced any authority to release the honorarium or that he had any fraudulent intention to cause wrongful loss to the State. The continuation of payment was the result of an administrative oversight on the part of the concerned authorities and not because of any concealment by the petitioner. Moreover, the petitioner's subsequent re-appointment as Lambardar by the competent authority further strengthens the position that he was found eligible for the said post.

10. In view of the above discussion, this Court is of the considered opinion that continuation of the criminal proceedings against the petitioner would amount to an abuse of the process of law and the impugned complaint, summoning order as well as the judgment dated 28.07.2023 (Annexure P-7) are liable to be set aside.



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11. Consequently, the present petition is allowed. Complaint bearing CIS No.COMI/20/2015 dated 02.01.2014 (Annexure P-5), the summoning order dated 07.03.2017 (Annexure P-6), the judgment dated 28.07.2023 (Annexure P-7) and all consequential proceedings arising therefrom qua the petitioner, are hereby quashed.

12. Pending application, if any, shall stand disposed of accordingly.

27.07.2026
Sonia

(H.S.GREWAL)
JUDGE

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