

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-11544 of 2015

Date of Decision: 23.4.2015

Prit Pal Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Mr. D.Hasija, Advocate with
Ms. Sandhani & Ms. Divya Minocha,
Advocates for the petitioner(s).

Mr. Neeraj Yadav, Assistant Advocate
General, Punjab for the respondent.

Darshan Singh, J.

1. The present petition has been filed for quashing of the consequent proceedings emanating out of FIR No. 23 dated 9.11.2012, registered under Sections 409, 420, 467, 468, 471 & 120-B of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as "the Act") at Police Station Vigilance Bureau, Patiala.

2. As per the prosecution allegations, the public land was usurped by the co-accused of the petitioner. The sale deed, with respect to the said transactions which were earlier refused to be registered, was subsequently registered by co-accused Gurinder Singh Walia, Naib Tehsildar, in collusion with the petitioner and Halqa Patwari and sanctioned the mutation. It was alleged that the accused, with their

connivance and under a conspiracy, misappropriated the public land measuring 5950 square yards, market value of which is worth ₹ 200/250.00 crores. On these allegations, the present case was registered under the aforesaid offence.

3. Learned counsel for the petitioner contended that in the present petition, he will only confine to legal issue. He contended that in this case, the preliminary enquiry has been conducted by Pritam Singh, Senior Superintendent of Police, Vigilance Bureau, Patiala. The case has also been registered on his complaint and he has also investigated the case. Learned counsel contended that the said police officer was in collusion with the principal accused, namely Kiraninder Singh, the vendor, who had received a huge amount of ₹ 6,50,00,000/-. But no action has been taken against the main accused, whereas the petitioner, who was simply posted as a Kanungo and had no role to play in the transaction or even in the sanctioning of mutation, has been falsely implicated. Thus, he contended that the partisan investigation conducted by the interested Investigating Officer, who was also the complainant, has resulted into serious prejudice to the petitioner and all the proceedings are vitiated and are liable to be quashed. To support his contentions, he relied upon the judgments rendered by the Hon'ble Apex Court in cases ***Bhagwan Singh v. The State of Rajasthan (1976)***¹ ***Supreme Court Cases 15*** and ***Megha Singh v. State of Haryana (1996)***¹¹ ***Supreme Court Cases 709***.

4. I have duly considered the aforesaid contentions.

5. As per the report of the Registry of this Court and the

averments made in paragraph No. 8 of the petition, the petitioner had earlier filed the petition bearing Criminal Misc. No. M-5085 of 2014 for quashing the impugned FIR and the said petition was dismissed by the Co-ordinate Bench of this Court vide order dated 11.2.2014. Faced with this situation, learned counsel for the petitioner has confined his arguments only to the fact that Pritam Singh, Senior Superintendent of Police, Vigilance Bureau, Patiala has conducted the preliminary enquiry in the case. The case has also been registered on his complaint and he has also investigated the case, which has resulted into serious prejudice to the petitioner.

6. To buttress his contentions, learned counsel for the petitioner has relied upon the judgments rendered in ***Bhagwan Singh's case*** (*supra*) and ***Megha Singh's case*** (*supra*).

7. There are some later judgments of the Hon'ble Apex Court on this issue. In the judgment rendered in ***State rep. by Inspector of Police Vigilance and Anti-Corruption v. V. Jayapaul 2004(2) R.C.R. (Criminal)*** 317, the similar question was raised and both the cases i.e. ***Bhagwan Singh's case*** (*supra*) and ***Megha Singh's case*** (*supra*) were cited before the Hon'ble Apex Court. After taking note of both these authorities, the Hon'ble Apex Court has laid down as under:-

“6. Though there is no such statutory bar, the premise on which the High Court quashed the proceedings was that the investigation by the same officer who 'lodged' the FIR would prejudice the accused inasmuch as the investigating officer cannot be expected to act fairly and objectively. We find

no principle or binding authority to hold that the moment the competent police officer, on the basis of information received, makes out an FIR incorporating his name as the informant, he forfeits his right to investigate. If at all, such investigation could only be assailed on the ground of bias or real likelihood of bias on the part of the investigating officer. The question of bias would depend on the facts and circumstances of each case and it is not proper to lay down a broad and unqualified proposition, in the manner in which it has been done by the High Court, that whenever a police officer proceeds to investigate after registering the FIR on his own, the investigation would necessarily be unfair or biased.”

8. Again in the judgment rendered by the Hon'ble Supreme Court in **S.Jeevanantham v. State through Inspector of Police, TN 2004(3) R.C.R. (Criminal) 333**, the officer, who had effected the search and seizure of the contraband articles, got registered the case and investigated the matter. The Hon'ble Apex Court has held as under:-

“3. In the instant case, PW-8 conducted the search and recovered the contraband article and registered the case and the article seized from the appellant was narcotic drug and the counsel for the appellant could not point out any circumstances by which the investigation caused prejudice or was biased against the appellant. PW-8 in his official capacity gave the information, registered the case as part of his official duty and later investigated the case and filed charge-sheet.

He was not in any way personally interested in the case. We are unable to find any sort of bias in the process of investigation.”

9. The same ratio of law has been laid down by the Hon'ble Apex Court in case ***Hardip Singh v. state of Punjab 2008(4) R.C.R. (Criminal) 97.***

10. In view of the aforesaid consistent rule of law, as laid down by Hon'ble the Apex Court, mere this fact that the police officer, who has got registered the FIR, has himself investigated the case, is itself no ground to render the investigation illegal. Such investigation can only be assailed on the ground of bias or real likelihood of bias on the part of the Investigating officer. The question as to whether Pritam Singh, Senior Superintendent of Police was in any manner biased against the petitioner which has resulted in any prejudice to the petitioner is a question of fact and is to be ascertained on the appreciation of evidence. This exercise is not possible in the present proceedings under Section 482 Cr.P.C. Thus, the contentions raised by learned counsel for the petitioner are without any substance. Moreover, this plea was also available to the petitioner at the time of filing Criminal Misc. No. M-5085 of 2014, which was earlier dismissed on merits.

11. Thus, keeping in view my aforesaid discussion, this petition has no merits and the same is hereby dismissed.

(Darshan Singh)
Judge

April 23, 2015
“DK”