

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

**CRM-M-13659 of 2015
DECIDED ON: MAY 01, 2015**

**M/S PR GRAM UDYOG SAMITI SAMANA, DISTT. PATIALA
THROUGH ITS SECRETARY RAJESH KUMAR.**

.....PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Rajesh Gupta, Advocate
for the petitioner.

JASPAL SINGH, J.(Oral)

Instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 13 dated February 01, 2013 under Sections 406, 420 and 120-B IPC registered at Police Station City Samana (Annexure P-1) and setting aside order dated December 04, 2014 whereby revision petition against order framing charge has been dismissed (Annexure P-5).

2. It has been argued by learned counsel for the petitioner that after getting instant FIR registered, respondent No.2 had written a letter dated February 02, 2013 to Senior Superintendent of Police, Patiala informing him that petitioners had deposited a sum of ₹2,00,000/- and has also created a mortgage in favour of respondent No.2 of the property valuing ₹1 crores and 10 lakhs and further that in case petitioners failed to pay the outstanding amount upto July 31, 2013 then respondent No.2 will be at liberty to sell

away the property to make good its loss. After the receipt of said letter, respondent No.1 was duty bound to cancel FIR as the only purpose was to recover the amount by respondent No.2. Even after the creation of mortgage, there was no purpose of continuing with the present FIR (Annexure P-1).

3. Not only this, prosecution presented the challan in the Court of Jurisdictional Magistrate, who has also illegally and against evidence available on file has framed charges against all the petitioners vide order dated April 10, 2014 for facing the trial under Sections 406, 420 and 120-B IPC. In view of circumstances that an amount of ₹2,00,000/- has already been deposited, the property has already been mortgaged in favour of respondent No.2 and matter involved is of civil nature i.e. pecuniary one, no offence under the provisions of Indian Penal Code is attracted. The trial is nothing but an abuse of process of law. As such impugned order as well as FIR deserve to be set aside/quashed.

4. This Court has given an anxious thought to the submissions made by learned counsel for the petitioners but this Court find the same to be of without any legal substance.

5. A glance at the report under Section 173(2) Cr.P.C. as well as documents annexed with it *prima-facie* transpires that accused in connivance with each other hatched a conspiracy and induced Punjab Agro to deliver paddy i.e. 41069 bags weighing 14374.15 quintals for the purpose of milling undertaking to supply rice to Punjab Agro, but it failed. The mere fact that a sum of ₹2,00,000/- has been paid or some property has been mortgaged in favour of respondent No.2 does not *ipso facto* mean that no offence is made out. Moreover, it is pretty settled that civil as well as criminal proceedings

can be proceeded with simultaneously. As far as framing of charge is concerned, it is well settled that at the time of framing of charge Court is not required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclosed the existence of all the ingredients constituting the alleged offence. At that stage, the court is not expected to go deep into the probative value of the material on record. The court is only to see whether there is a ground for presuming that offence has been committed and not that a ground for convicting the accused has been made out. At the stage of framing charge even strong suspicion founded on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence. There is catena of case of Hon'ble Apex Court as well as this Court. We can have the support of the ratio of judgment captioned as "*Sheoraj Singh Ahlawat & others vs. State of Uttar Pradesh & another*; 2013 (1) RCR (Criminal) 153 and *Sanghi Brothers (Indore) Pvt. Ltd. vs. Sanjay Choudhary & others*; 2008 (4) RCR 640, in this regard.

6. In the light of what has been discussed above, this Court does not find any merit in the instant petitioner. Accordingly, instant petition being devoid of merit is dismissed.

MAY 01, 2015
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(JASPAL SINGH)
JUDGE