In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 17413 of 2013 (O&M)
Date of decision: 12.1.2015

Jaswant Singh and others ......Petitioners

Versus

State of Punjab ....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.P.S.Guliani,Advocate,
for the petitioners.
Mr.Deep Singh,Assistant Advocate
General,Punjab

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SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 (`Cr.P.C.' for short) for quashing of FIR No. 101 dated 20.5.2010 (Annexure P1) registered under Sections 420/467/468/471/474/120-B of the Indian Penal Code,1860 (`IPC' for short) at Police Station Patran, District Patiala and all subsequent proceedings arising therefrom.

Prosecution story, in brief, is that on 20.5.2010 during checking under Section 51 of the Punjab Value Added Tax Act, 2005 (for short `the Act'), an information was received that Driver- Jaswant Singh was carrying goods in Bolero pick-up from Narwana (Haryana) to Samana under wrong documents. In pursuance to the said information at about 12.20 noon, vehicle in question was stopped. The driver of the vehicle produced two bills regarding the goods loaded in the vehicle. In both the bills, the description of the goods was found to be different.

Learned counsel for the petitioners has submitted that the proceedings under Section 51 of the Act were initiated vide order dated 21.5.2010 (Annexure P2). Penalty to the tune of ₹20,790/- was imposed under Section 51(7)(C) of the Act. The said penalty amount was duly deposited by the petitioners. Due to this reason, cancellation report was prepared by the Investigating Agency (Annexure P8). However, challan was presented against the petitioners at a later stage.

Learned State counsel, on the other hand, has submitted that the petitioners had prepared incorrect bills qua the goods carried in the vehicle in question. Hence, criminal proceedings against the petitioners were liable to continue.

Admittedly, on 20.5.2010, vehicle bearing No. PB 11-AP-3969 was intercepted by Ominder Singh, Excise and Taxation Officer during general checking under Section 51 of the Act. On checking, the driver of the vehicle produced two bills and stated that the same had been prepared to avoid payment of entry tax. A show cause notice was issued to the owner of the goods through driver of the vehicle on 21.5.2010. The goods were detained under Section 51(6)(b) of the Act for verification. On 21.5.2010, son of petitioner No.3 appeared before the Detaining Officer. Vide order dated 21.5.2010 (Annexure P2), penalty to the tune of ₹20,790/- was imposed under

Section 51(7)(C) of the Act. Admittedly, the penalty amount was deposited and the goods in question were released to the owner. The said fact is also evident from the cancellation report (Annexure P8).

Thus, in the present case, proceedings under Section 51 (7)(C) of the Act were carried out and penalty was imposed qua the attempt to evade tax on the taxable goods worth ₹41,580/-. The penalty imposed under the Act has been duly deposited by the owner of the goods. Consequently, the goods were released to the owner. In thesse circumstances, continuation of criminal proceedings against the petitioners would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. FIR No. 101 dated 20.5.2010 (Annexure P1) registered under Sections 420/467/468/471/474/120-B IPC at Police Station Patran, District Patiala and all subsequent proceedings arising thereto are quashed.

(SABINA)
JUDGE

January 12,2015

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