

Crl. Misc. No. M-25216 of 2013

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

Crl. Misc. No. M-25216 of 2013
Date of decision: 02.03.2015

Ranjit Singh Shergil and another

....Petitioners

Versus

Parkash Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: - Mr. T.S. Sangha, Sr. Advocate, with
Mr. H.S. Sangha, Advocate, for the petitioners.
Mr. Dhirinder Chopra, Advocate, for respondents No.1 and 2.
Mr. K.S. Sidhu, DAG, Punjab.

PARAMJEET SINGH, J. (ORAL)

Instant petition under Section 482 of the Code of Criminal Procedure has been filed for quashing the complaint No.78 dated 17.11.2011 under Sections 420/465/467/468/471/120-B IPC titled 'Parkash Singh and another v. Sukhwinder Kaur Sarpanch and another', summoning order dated 31.07.2012 passed by learned Sub Divisional Judicial Magistrate, Moonak, and order dated 13.05.2013 passed by learned Additional Sessions Judge, Sangrur, vide which the criminal revision filed by the petitioners has been dismissed.

Brief facts of the case are that respondents No.1 and 2 filed a complaint against the petitioners and others under Sections 420/465/467/468/471/120-B IPC alleging that during her tenure as a

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Sarpanch, respondent No.4 in connivance with petitioners and others forged the record, bills and misappropriated the amount of grants sanctioned by the Government for development works of the village.

Learned counsel for the petitioners submits that he is not pressing the present petition qua petitioner No.2 and confining his prayer qua petitioner No.1 as he is a public servant and is entitled to the benefit of Section 197 of the Code of Criminal Procedure. Without sanction from the Government he could not be prosecuted either in an FIR or in a complaint case. Learned counsel for the petitioners submits that implication of Section 197 Cr.P.C. has neither been examined by the trial Court while passing summoning order Annexure P-2 nor by the learned Additional Sessions Judge whereby revision petition has been dismissed vide order Annexure P-3.

I have heard learned counsel for the parties and perused the record.

Petitioner No.1 was holding the post of SDO at relevant time and now is holding the post of XEN. Petitioner No.1 is a gazetted officer and a public servant. So far as summoning order Annexure P-2 and order Annexure P-3 passed in revision petition against petitioner No.1 are concerned, same are set aside for a limited purpose to examine the implication of Section 197 Cr.P.C., which shall be initially examined by the trial Court whether petitioner No.1 can be prosecuted without prior sanction from the Government. Petition is disposed of qua petitioner No.1.

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Fair request has been made by learned counsel for the petitioners that he may be permitted to withdraw this petition qua petitioner No.2 with liberty to raise all the pleas before the competent Court at the time of framing of charges.

Dismissed as withdrawn qua petitioner No.2 with aforesaid liberty.

(Paramjeet Singh)
Judge

March 02, 2015
R.S.