

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26654 of 2013 (O&M)
Date of Decision:25.5.2015

Kuldip Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. S.P.S. Sidhu, Advocate for the petitioner.
Mr. P.S. Grewal, DAG, Punjab for respondent No.1.

NAVITA SINGH, J.

1. This petition has been filed under Section 482 of the Code of Criminal Procedure (Cr.P.C. for short) for quashing of FIR No.86 dated 14.7.2011 under Sections 406 and 420 of the Indian Penal Code and Section 7 of the Essential Commodities Act registered at Police Station Gidderbaha, District Sri Muktsar Sahib qua the petitioner as well as order dated 21.12.2012 directing further investigation of the case and order dated 8.3.2013 issuing non-bailable warrants of arrest against the petitioner.

2. The FIR was registered against the firm M/s Ravneet Agro Industries, Gidderbaha (firm for short) through its owner Malkit Kaur on the ground that she had entered into agreement with Punjab State Civil Supplies Corporation (PUNSUP for short) for milling of paddy for the year 2008-2009. Certain amount of 'A' Class paddy was given to her and she issued receipt on behalf of the firm. The firm was supposed to give 67% of the paddy as prepared rice to the Food Corporation of India in the account of PUNSUP but the firm deposited lesser quantity of rice. A letter was written to Senior Superintendent of Police, Muktsar Sahib regarding registration of a case against the firm on which inquiry was conducted and on 29.9.2010 no rice or paddy was found in the mill.

The firm had, therefore, misappropriated the produce belonging to PUNSUP. The value of the product which was short came to be Rs.1,06,81,658/-. Certain inferior quality of rice was found in the mill. The firm was also required to pay for the value of paddy crop relating to subsequent period as well.

3. After presentation of challan in the court and after her arrest on 14.7.2011, Malkit Kaur filed an application before the Senior Superintendent of Police, Muktsar Sahib making allegations against the present petitioner stating that he was looking after the entire work of the sheller and was dealing with the relevant departments. He used to obtain signatures on blank papers, stamp papers and cheques and it was he who misappropriated the produce/money.

4. Counsel for the petitioner submitted that on account of an agreement dated 16.7.2011 signed by the petitioner, investigation was made against him and he was made co-accused. On 5.8.2011, Malkit Kaur deposed an affidavit stating that after the death of her husband, who died due to cancer, she was very lonely and came into contact with the petitioner who started helping her in the business in view of her circumstances.

5. A relationship developed between the petitioner and Malkit Kaur and the former was looking after the criminal case against her to help her. She further stated that no offence was committed by the petitioner and only to conceal the relationship between the two, both the petitioner and Malkit Kaur started telling others that they were partners in the firm. She named certain persons in the affidavit as being responsible for threatening her and Kuldeep Singh and also her children.

6. In the document termed as agreement dated 16.7.2011, which was not an agreement as there was nobody on the other side and was rather some statement of account made by the petitioner, the petitioner had mentioned that he along with Malkit Kaur had been a partner to the extent of half share in the

firm. However in the opening para, it was mentioned that Malkit Kaur was the owner in possession of the firm.

7. It is not understandable as to how the petitioner was made liable on an application filed by Malkit Kaur at a much later stage and she did not mention anything about him during investigation. Under what circumstances she deposed the affidavit dated 5.8.2011 exonerating the petitioner is also not explained. No re-investigation or further investigation was ordered by the court.

8. Counsel for the petitioner submitted that if at a later stage any evidence is found against the petitioner, the proceedings as per law can be taken against him but at this stage only on the basis of a document dated 16.7.2011, he cannot be made as co-accused. Malkit Kaur is not sure of her stand because at one time she filed an application before the Senior Superintendent of Police, Muktsar Sahib against the petitioner and at another point of time, she had deposed the affidavit that he was not involved in any manner.

9. It, therefore, cannot be said at this stage that there was sufficient evidence against the petitioner.

10. The petition is, therefore, allowed and the FIR, insofar as it relates to the petitioner, is quashed along with other proceedings related thereto. However, it is made clear that there shall be no bar for the trial Court to summon him as an additional accused if in any case evidence is brought before the court against him and also the prosecution shall not be debarred from bringing before the court any material found against the petitioner.

(NAVITA SINGH)
JUDGE

25.5.2015
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