

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

**Criminal Misc. No. M-23855 of 2015
Date of Decision: 23.07.2015**

Jamil Ahmad

...Petitioner(s)

Versus

Sharif Sarpanch & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. Mohammad Arshad, Advocate
for the petitioner.

HARI PAL VERMA J.(Oral)

Petitioner namely Jamil Ahmad son of Rasul Khan has filed the present petition under Section 482 CrPC for setting aside the order dated 4.10.2014 (Annexure P4), whereby the respondents have been discharged in a complaint filed by the petitioner under Sections 420/467/468/471/406/409/120-B IPC. Challenge is also raised to order dated 29.4.2015 (Annexure P-5), whereby the appeal against order dated 4.10.2014 has been dismissed.

Briefly stated, the petitioner-complainant filed a criminal complaint under Sections 420/467/468/471/406/409/120-B IPC

against the respondents alleging therein that respondent no.1 who is ex-Sarpanch and respondent no.2 who is Secretary of the Gram Panchayat, Nijampur while handing over the charge to the newly elected Sarpanch Smt. Nusrat, intentionally did not hand over one M.B. of Jasy, one M.B. of J.R.Y, two M.B. of Ahad and one expenditure file of J.R.Y. despite various requests. Similarly, the respondents-accused in collusion with each other have passed bogus resolutions in the proceedings register of the Panchayat. They mentioned that the *gali* was constructed with *pucca* bricks whereas no number or name of the *gali* was mentioned in the resolutions. The respondents-accused have not spent the amount, as mentioned in the resolutions and misappropriated the Government funds for their personal use. Furthermore, the wheat which was released to the Gram Panchayat, Nijampur for distribution to the labourers under the Scheme known as 'Kaam Ke Badle Anaj' was never given to them. The respondents have fabricated and prepared a false and bogus stock-register by putting false signatures of the labourers. The respondents even prepared a false cash-book of the Gram Panchayat, which does not tally with each other. In this manner, the respondents have tampered with the Gram Panchayat record and misappropriated the funds.

On the basis of allegations made in the complaint, learned Judicial Magistrate Ist Class, summoned the respondents-accused vide order dated 7.5.2012. However, the respondents filed

a revision petition against the order of summoning dated 7.5.2012, which was dismissed by learned Additional Sessions Judge vide judgment dated 3.2.2014.

It is at the stage of framing of charge, learned Magistrate considered the material on record, but as the complainant failed to prove on record the commission of offences, as stated in the complaint, the respondents were discharged vide judgment dated 4.10.2014.

The petitioner-complainant filed an appeal against the order of discharge dated 4.10.2014, but finding no ground to interfere in the impugned order of discharge dated 4.10.2014, learned Appellate Court dismissed the appeal vide judgment dated 29.4.2015.

It is in the aforesaid circumstances, the petitioner has filed the present petition under Section 482 CrPC for setting aside the order of discharge dated 4.10.2014 as well as judgment dated 29.4.2015, dismissing the appeal.

Learned counsel for the petitioner submits that the Courts below have not appreciated the evidence on record, as once the Court has found a *prima facie* case for summoning the accused-respondents vide order dated 7.5.2012, which was affirmed by the revisionary Court vide judgment dated 3.2.2014, the respondents are not entitled to be discharged.

I have heard learned counsel for the petitioner.

The petitioner in order to prove his case has led pre-charge evidence, whereupon two witnesses were examined which include the petitioner-Jamil as PW-1 and Nusrat PW-2, whereas the respondents pleaded that in order to connect the respondents with the alleged offences, no evidence has been led on behalf of the complainant. The complainant himself has been facing many criminal cases against him and PW-2 Nusrat, who is daughter-in-law of the complainant was also suspended, as she was found under-age and was not eligible to contest the elections. Interestingly, the important documents including the resolution book have not been brought on the record by the complainant. Even in the report filed under Section 202 CrPC, no incriminating material was found against the respondents and therefore, the said report cannot be read against the accused. Learned Magistrate has dealt with the contents of the complaint *vis-a-vis* the statements made by the petitioner as PW-1 and Nusrat as PW-2.

Considering the fact that the material adduced by the petitioner-complainant was not sufficient to frame charge against the respondents, the trial Court has rightly discharged them. Merely because the respondents were summoned by the trial Court and revision petition against the said summoning order was dismissed, is not sufficient to hold that the charges are required to be framed against the respondents in absence of any cogent material to support the same allegations. The petitioner has not been able to

substantiate his allegations.

Therefore, I find no merit in the present petition and the same is dismissed.

July 23, 2015
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(HARI PAL VERMA)
JUDGE