IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No.27865 of 2015 (O&M)

Date of Decision: 14.09.2015

Hans Raj and others

.... Petitioners

Vs.

Centre Bureau of Investigation, Sector 30, Chandigarh

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Vishal Deep Goyal, Advocate for the petitioners.

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JASWANT SINGH, J.

Three partners of the partnership firm, functioning under the name and style of M/s R.C.Industries and engaged in the business of shelling the paddy and manufacture of rice in their rice sheller, have approached this Court by way of filing the present petition under Section 482 of the Code of Criminal Procedure (for short 'the Code') for quashing the order dated 17.04.2013 (**Annexure P-1**), passed by the learned Special Judge, C.B.I. Court, Patiala, whereby they have been charge-sheeted in case FIR No.RCHG2006A0001 dated 07.01.2006, under Sections 420, 120-B and 201, IPC read with Section 13(2), 13(1)(d) of the Prevention of Corruption Act, 1988, registered with Police Station C.B.I./ACB, Chandigarh (**Annexure P-2**) and the subsequent proceedings arising therefrom.

Learned Counsel for the petitioners has argued that although the partnership firm had six partners, however, five partners, including the petitioners, had given a special power of attorney in favour of partner-Rajesh Kumar for functioning of day to day affairs of the sheller/firm and, therefore, no case is made out against the petitioners in view of the settled law that it is only the partner, who actively participated in the business during the relevant time can be booked for the offence committed by the Company/Firm. It is next submitted that the petitioners are not public servants, therefore, cannot charge under Section 13 of the Prevention of Corruption Act, 1988. Lastly argued that on the basis of documents appended with the challan, no case for framing of the charge is made out.

After hearing learned Counsel for the petitioners, this Court is not persuaded to accept the pleas of the petitioners at this stage of the proceedings.

It is not in dispute that the present petition has been filed after two years of the framing of charge and during interregnum, part of the prosecution evidence has been recorded. Therefore, at this belated stage, no case for interference is made out. That apart, it has come on record that the various firms including the petitioners had supplied sub standard rice beyond the fair average quality and unfit for human consumption against the supply of good quality of paddy and, therefore, no connivance (criminal conspiracy) with the officials of the Government had committed various illegal and dishonest acts with intention to induce and cheat the Food Corporation of India (FCI).

It transpires that a joint trial is being conducted against the government officials as well for entering into a criminal conspiracy and having caused loss to the tune of ₹10.59 crores and, therefore, provisions of the Prevention of Corruption Act have been invoked. It is thus apparent that legal parameters for framing the charge are fully dissatisfied in the present case as there is sufficient material brought on record showing the complicity of the petitioners.

In such circumstances, invoking of the inherent jurisdiction under Section 482 of the Code is absolutely unwarranted.

In view of the above, the present petition stands dismissed.

September 14, 2015 **(JASWANT SINGH)**
Gagan **JUDGE**