

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

**CRM M-30757 of 2015 (O&M)
Decided on : 29.10.2015.**

Vikas Sharma

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Rajesh Bansal, Advocate,
for the petitioner.

JITENDRA CHAUHAN, J.

The present petition, under Section 482 of Code of Criminal Procedure, has been filed for quashing of the FIR No.33 dated 29.5.2015, registered under Sections 7, 8 and 13 of the Prevention of Corruption Act, 1988 (for short “the Act”) and Section 120-B IPC at Police Station State Vigilance Bureau, Rohtak Division, Rohtak (Annexure P-1) and the charge-sheet dated 7.8.2015 (Annexure P-2).

Learned counsel for the petitioner contends that a false case has been registered against the petitioner under the 'Act' as well as under the IPC, whereas, the petitioner not being a public servant, does not come under the purview of the Act. He further contends that the petitioner was not arrested at the time of raid. The complainant in his statement recorded under Section 164 Cr.P.C has

specifically stated that one, Vivek Attri, employee of the Civil Hospital had demanded the bribe from him and did not state anything against the petitioner. The petitioner is not a beneficiary of the transaction between the complainant and the said Vivek Attri because neither the petitioner is a Govt. employee nor he ever had demanded anything from the complainant. The allegations have been levelled against Vivek Attri alone. On these premises, the quashing of the FIR and the charge-sheet has been sought.

I have heard learned counsel for the petitioner and have gone through the case file.

The initial FIR, Annexure P-1 was registered against one Attri and the present petitioner on the allegations that when the complainant, Deepak met the said Attri for preparation of his birth certificate, the said Attri demanded a sum of Rs.40,000/- from the complainant and further told the complainant that the petitioner is his aide and the complainant ought to contact him for getting the work done. Thereafter, the petitioner demanded and accepted Rs.10,000/-, 15000/- and Rs.5000/- as bribe for getting the work done through Attri. On 28.5.2015, the co-accused, Attri called the complainant and handed over the file to the petitioner to get the signatures of SDM. Thereafter, the accused, Attri further demanded Rs.10,000/- from the complainant which was settled to be paid on 29.5.2015. On 29.5.2015, a raid was conducted in which the co-accused, Attri was caught red handed while receiving Rs.10,000/- from the complainant. Later on, after

investigation conducted by the Additional Register-Cum-District Health Officer, Panipat, FIR, Annexure P-4 under Section 420 IPC was registered against co-accused Deepak and Attri. In the circumstances, prima-facie, the involvement of the present petitioner is made out. The petitioner is the facilitator of the crime. He played the role of a tout. The petitioner received Rs.30,000/- on behalf of the main accused, Attri.

Section 8 of the Act reads as under:-

“8. Taking gratification, in order, by corrupt or illegal means, to influence public servant-

Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any

public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.”

To attract the provisions of Section 8 of the Act, the accused need not be a public servant. This court does not find any good reason to quash the FIR. In **Gian Singh v. State of Punjab 2012 (4) R.C.R. (Crl) 543**, the Hon'ble Supreme Court made the following observations:

“Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet

certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all.”

Therefore, finding no merit the present petition, the same is hereby dismissed.

Anything said herein above will not affect the case of either parties on merit. The petitioner is at liberty to take all the pleas before the trial Court at the appropriate stage.

19.10.2015.
SN

(JITENDRA CHAUHAN)
JUDGE