

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

**CRM-M-36790 of 2013 (O&M)  
Date of Decision: 6.8.2015**

Harjinder Singh and another

--Petitioners.

Vs.

State of Punjab and others

--Respondents.

**CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present : Mr. Veneet Sharma, Advocate  
for the petitioners.

Mr. Daljit Singh Virk, AAG, Punjab.

Mr. A.P.S. Sandhu, Advocate  
for respondent No.5.

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**RAMESHWAR SINGH MALIK J. (ORAL)**

Petitioners, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C' for short), seek direction to the official respondents for protection of their life and liberty and unwarranted harassment at the hands of respondent No.5. Petitioners also seek quashing of notice dated 11.10.2013 issued by the Senior Superintendent, Vigilance Bureau, Amritsar as well as second enquiry initiated against them.

Notice of motion was issued and pursuant thereto, reply on behalf of respondent-State was filed and thereafter, status report by

way of affidavit dated 6.5.2015, was also filed.

Learned counsel for the petitioners submits that the same matter already stood inquired into by the Sub Divisional Judicial Magistrate, Amritsar. However, no such document is available on record in this regard. He further submits that since the matter has already been inquired into, second enquiry on the same set of allegations is not permissible in law and the petitioners are being put to unwarranted harassment. In support of his contentions, learned counsel for the petitioners places reliance on P.S.Rajya Vs. State of Bihar, 1996 (3) RCR 261.

On the other hand, learned counsel for the State, on instructions from Inspector Mulakh Raj, submits that petitioners are facing serious charges of corruption. He further submits that even if enquiry was conducted at the departmental level, that cannot absolve the petitioners from the serious allegations of corruption alleged against them. He places reliance on the following judgments of the Hon'ble Supreme Court as well as of this Court:-

1. State Bank of India and others Vs. R.B.Sharma 2004 (7) SCC 27
2. Hindustan Petroleum Corporation Ltd. Vs. Sarvesh Berry, 2005 (10) SCC 471.
3. Sat Pal Joshi Vs. State of Punjab 2007 (3) RCR (criminal) 193
4. Ombir Singh Vs. Union of India and others, 2011 (3) SCT 777
5. Garib Dass Vs. State of Punjab, 2013 (2) PLR 792.

He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation

of the present case, instant one has not been found to be a fit case warranting interference at this hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C. To say so, reasons are more than one, which are being recorded hereinafter.

Although powers of this Court under Section 482 Cr.P.C. are wide enough, yet it is equally true that the said powers are to be exercised sparingly and with circumspection. In the present case, learned counsel for the petitioners could not point out any serious prejudice which might have been caused or is being caused to the petitioners, while conducting enquiry into the matter. Even if allegations against the petitioners are not treated to be based on charges of corruption, still allegations against the petitioners are very serious in nature. Admittedly, petitioners, being public servants, were found indulged in the business of sale and purchase of property.

A bare reading of the communication dated 10.4.2013 (Annexure P-6) would show that the Vigilance Bureau, Punjab, wrote to the Financial Commissioner, highlighting the serious allegations against the petitioners. In such a situation, even if the matter had already been enquired into, still the powers of the investigating agency cannot be curtailed. It is so said, because the investigating powers of the police were duly recognised by the Privy Council way back in the year 1945 in its celebrated judgment in **Emperor versus Khwaja Nazir Ahmad, AIR 1945 PC 18**.

The law laid down in **Khaja Nazir Ahmed's case** (supra) has been consistently followed and there is no deviation till date. In such a situation, it can be safely concluded that if the investigating

agency is proceeding on a bonafide approach, while enquiring into the matter, its powers cannot be curtailed by this Court, particularly when nothing contradictory has been brought to the notice of this Court.

Coming to the judgment relied upon by the learned counsel for the petitioners, there is no dispute about the law laid down therein, however, close perusal thereof would show that the same is of no help to the petitioners, being distinguishable of facts. Further, it is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

Further, if the legitimate authority of the investigating agency is curtailed by this Court, exercising its jurisdiction under Section 482 Cr.P.C., consequences would be contrary to the settled proposition of law. It is neither pleaded nor argued case on behalf of the petitioners that police authorities were feeling inimical against the petitioners. In this view of the matter, there is no reason for this Court to doubt the bonafide approach adopted by the investigating agency, in conducting second enquiry against the petitioners. Moreover, powers of this Court under Section 482 Cr.P.C., are not meant for the purpose for which the petitioners are invoking the same.

It goes without saying that petitioners are at liberty to put up their case before the investigating agency, at the appropriate time

and thereafter, they shall have every opportunity to defend themselves even before the court of law. Civil and criminal proceedings as well as the standard of proof therein are distinct and independent of each other.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference is made out.

Resultantly, with the abovesaid observations made, present petition stands dismissed, however, with no order as to costs.

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**

6.8.2015  
Ak Sharma