

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

**CRM No. M-446 of 2015 (O&M)
DECIDED ON: MAY 26, 2015**

BALDEV KUMAR BANSAL

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

Present: Mr. R.A. Sheoran, Advocate
for the petitioner.

Mr. RPS Sidhu, AAG, Punjab.

JASPAL SINGH, J

CRM No. 16192 of 2015

Application is allowed as prayed for.

Annexures P-5 to P-14 are taken on record, subject to all just exceptions.

Main case

Instant petition has been preferred under Section 482 Cr.P.C by Baldev Kumar Bansal seeking quashing of order dated October 27, 2014 (Annexure P-1) vide which learned trial Court has framed charge under Section 420 IPC read with Section 120-B IPC and order dated December 12,

2014 (Annexure P-2) passed by learned Additional Sessions Judge, SAS Nagar, Mohali whereby, criminal revision filed by the petitioner was dismissed as well as quashing of FIR No. 151 dated May 17, 2012 under Sections 420, 406 and 120-B IPC registered at Police Station Zirakpur, District SAS Nagar, Mohali (Annexure P-3) and all subsequent proceedings arising therefrom.

2. In response to notice of motion issued by this Court vide order dated January 07, 2015, Mr. RPS Sidhu, AAG, Punjab appears and represented the respondent-State. Reply by way of an affidavit of Anil Kumar, PPS, Superintendent of Police, Derabassi, District SAS Nagar (Mohali) was also filed, which was taken on record.

3. While assailing the impugned orders, it has been ebulliently argued by learned counsel for the petitioner that the same are absolutely against actual and real facts. In fact, petitioner has been made a scape goat in the instant *lis* at the instance of B.B. Aggarwal, Chief Manager, Indian Overseas Bank, Sector 7, Chandigarh. Otherwise, petitioner has nothing to do either with sanctioning of loan to M/s Royal Empire Company for the project of M/s Royal Apartments nor he was the competent authority to sanction the loan.

4. It has further been argued by learned counsel for the petitioner that neither name of petitioner appears in FIR nor any specific role has been attributed to him. It was only subsequent thereto, at the instance of B.B. Aggarwal, he was dragged in the instant case. Thereafter, statements of Joginder Singh and Lalit Kumar Gupta Pws are recorded under Section 161 Cr.P.C by the investigating officer. Only allegation against the petitioner is

that he did not put or display any notice at the premises to the effect that property is already under mortgage with the bank regarding which Lalit Kumar Gupta, Joginder Singh etc had applied for the purchase of flats and parted with money in respect thereof. There is nothing on record to show that petitioner connived with M/s Royal Empire company or promoters thereof. An amount of ₹10.00 crore was also sanctioned as loan by senior officers of the bank whereas, petitioner was only working as AGM. He was on the verge of retirement at that time. Since, there is neither any evidence to show that petitioner committed cheating or fraud with complainant nor that he was instrumental in getting the loan sanctioned to M/s Royal Empire Company or that there was any lapse or omission on his part in not putting notice at the spot with regard to mortgage of property, FIR and subsequent proceedings initiated on its basis are not sustainable in the eyes of law. Thus the same are liable to be set aside and quashed by way of acceptance of instant petition.

5. On the other hand, learned State counsel has contended that there is sufficient and cogent evidence against the petitioner that he connived with promoters of M/s Royal Empire Company and was instrumental in getting the loan of ₹10.00 crore sanctioned. Not only this, he also failed to display the notice at the spot that property regarding which complainant and others spent the amount for purchasing flats is already under mortgage. So, a *prima facie* case is made out against him. Moreover, charge has already been framed against petitioner to face trial under Section 420 IPC read with Section 120-B IPC. Not only this even a revision petition preferred against order dated October 07, 2014 whereby, charge was framed has since been

dismissed vide order dated December 12, 2014 upholding the charge sheet. Accordingly, learned State counsel prayed for dismissal of instant revision petition.

6. After hearing learned counsel for the parties and elaborately going through the documents available on file, this court does not find any merit in the instant revision petition, especially in view of the fact that petitioner was posted as AGM when a loan amounting to ₹10.00 crore was sanctioned by Indian Overseas Bank in favour of M/s Royal Empire Company. The said amount was also disbursed in violation of terms and conditions imposed by bank and even petitioner also failed to put notice at the site with regard to mortgage of property in question and connived with a view to cheat the customers. Apart from the statement of B.B. Aggarwal, there are also statements of Joginder Singh and Lalit Kumar Gupta, who have categorically levelled allegations against the petitioner attributing connivance on his part.

7. Moreover, in the case in hand, investigation is already complete and challan has already been presented. Not only this, petitioner has already been charged sheeted to face trial under Section 420 IPC read with Section 120-B IPC alongwith his co-accused. The said order of framing charge has since been upheld by learned revisional court vide order dated December 12, 2014, which has also been challenged by petitioner through instant petition. Moreover, complaint/FIR can only be quashed in the circumstances highlighted by Hon'ble Apex Court in case captioned as **State of Haryana and others v. Bhajan Lal and others; 1992 Supp (1) SCC 335**; where allegations made in FIR or the complaint, even if they are taken at their face

value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against accused. But in the facts and circumstances of the case in hand which have been discussed above, no such opinion can be expressed at this stage. All the pleas which have been taken in instant petition can be termed to be the defence pleas which petitioner can take while defending the case but are not sufficient grounds either for quashing FIR or setting aside the charge sheet or order dated December 12, 2014 passed by learned Additional Sessions Judge, SAS Nagar, Mohali whereby, framing of charge by learned trial Court has been upheld.

8. Dismissed.

MAY 26, 2015
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(JASPAL SINGH)
JUDGE