

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

**CRR No. 871 of 2011 (O&M)
Date of decision: April 20, 2015**

Rajpal

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Ashit Malik, Advocate
 for the petitioner.

Mr. C.S. Bakshi, Addl. AG, Haryana.

Mr. Gaurav Mohunta, Advocate and
Mr. R.S. Kundu, Advocate
for respondent No.2.

Jaspal Singh, J.(Oral)

Feeling dissatisfied with order dated February 08, 2011 passed by learned Additional Sessions Judge, Kaithal whereby, cancellation report submitted by investigating agency in case bearing FIR No. 05 dated March 04, 2009, under Section 7 and 13 Prevention of Corruption Act, 1998 (for brevity "Act") registered at Police Station State Vigilance Bureau, Ambala was accepted, petitioner/complainant has preferred the instant revision.

2. The facts giving rise to the revision petition are that a trap was laid by State Vigilance Bureau Unit Kaithal on ASI Wazir Singh who was posted as Incharge Police Post Titram on March 04, 2009. He has been

allegedly accepting a sum of ₹3000/- per month from Rajpal-petitioner but subsequent thereto, he started raising the demand of ₹4000/- per month. Respondent No.2 was caught red handed by police party of Vigilance Bureau and recovery of tainted currency notes to the tune of ₹4000/- was effected from him that too, in the presence of Executive Magistrate deputed by Deputy Commissioner, Kaithal and some other witnesses.

3. On November 12, 2009, Swaroop Singh father of respondent No.2 moved an application before Director, State Vigilance Bureau Haryana for getting the allegations levelled by the petitioner enquired into. The matter was re-investigated by DSP Radhey Sham, State Vigilance Bureau, who submitted a cancellation report mainly on the basis; (a) that during year 2008-2009 the licence of liquor vend at Titram turning was in the name of Thambu Ram and not in the name of petitioner; (b) that ASI Wazir Singh (respondent No.2) having strict instructions from Superintendent of Police, Kaithal to curb down the sale of illicit liquor in his area; (c) that there was political rivalry in between petitioner and brother of respondent No.2 namely Ram Singh and (d) that currency notes to the tune of ₹4000/- were forcibly thrust in the right pocket of respondent No.2 by Rajpal-petitioner.

4. Cancellation report submitted by investigating agency was accepted and FIR was ordered to be cancelled vide impugned order fully reflected in para 1 of this judgment.

5. It is an undisputed fact that ASI Wazir Singh was posted as Incharge Police Post Titram. On a complaint lodged by Rajpal to Deputy Commissioner, a direction was issued to State Vigilance Bureau to lay a

trap that too, in the presence of Executive Magistrate, Kaithal. Accordingly, a raid was conducted and respondent No.2 was caught red handed and tainted notes 8 in number of the denomination of ₹500/- each were recovered from him. On the next day, statements of complainant as well as other witnesses were recorded under Section 164 Cr.P.C. by learned JMJC, Kaithal. Entire evidence collected during investigation has been ignored and disbelieved by DSP Radhey Sham simply on the ground that tainted currency notes were thrust in the right pocket of respondent No.2 and the same were neither demanded nor accepted

6. Here it would be pertinent to mention that respondent No.2 was arrested at the spot. He was produced before Duty Magistrate on the next day. Subsequently, he was bailed out. To the utter surprise, he did not utter even a single word either in the bail application or in any other documents that tainted currency notes were thrust in his pocket by Rajpal-petitioner. On one fine morning after about 8 months of raid, a complaint was lodged by father of respondent No.2, which ultimately culminated into the cancellation of FIR. The learned trial Court appears to have been swayed by the report of DSP with regard to cancellation and failed to appreciate the other evidence collected by investigating agency at the initial stage i.e. when the trap was laid and tainted currency notes were recovered. The court is not to act as a post office to accept the cancellation report and has to apply mind to the various factors. The mere fact that protest petition has not been filed by complainant or his counsel does not *ipso facto* mean that whatever has been projected by investigating agency, is a gospel truth. The matter requires a thorough

probe.

7. In the light of what has been discussed above, the impugned order dated February 08, 2011 is set aside and learned trial Court is directed to re-appreciate the evidence and then to proceed in accordance with law. Copy of this order be transmitted immediately to the concerned quarters.

April 20, 2015

sham

**(JASPAL SINGH)
JUDGE**