

In the High Court of Punjab and Haryana at Chandigarh

.....

(1) Criminal Revision No.2903 of 2013

.....

Date of decision:19.1.2015

Jagir Singh and another

...Petitioners

v.

State of Punjab

...Respondent

....

(2) Criminal Revision No.2042 of 2014

.....

Raj Kumar

...Petitioner

v.

State of Punjab

...Respondent

....

(3) Criminal Misc. No.M-27759 of 2014

.....

Harbans Singh and others

...Petitioners

v.

State of Punjab and another

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. P.S. Brar, Advocate for the petitioners in Cr. Revision No.2903 of 2013.

Mr. Raj Kumar, petitioner in person in Cr. Revision No.2042 of 2014.

Mr. Kamna Kumar Jain, Advocate for the petitioners in Cr. Misc. No.M-27759 of 2014.

Mr. Varun Sharma, Assistant Advocate General, Punjab for the respondent-State in Cr. Revision No.2903 of 2013 and

Cr. Revision No.2042 of 2014.

.....

Inderjit Singh, J.

This order will dispose of the above mentioned two criminal revisions and one criminal miscellaneous petition as these arise out of the same FIR No.29 dated 8.6.2005 registered for the offences under Sections 166, 167, 175, 177, 191, 192, 196, 208, 209, 217, 218, 406, 409, 120-B IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 at Police Station Vigilance Bureau, Patiala.

Criminal Revision No.2903 of 2013 has been filed by Jagir Singh and Surjit Singh against State of Punjab under Section 401 Cr.P.C. challenging the impugned order dated 17.8.2013 passed by learned Additional Sessions Judge, Patiala, framing of charges against all the accused for the offences under Sections 166, 167, 175, 177, 191, 192, 196, 208, 209, 217, 218, 406, 409, 120-B IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

Criminal Revision No.2042 of 2014 has been filed by Raj Kumar against State of Punjab under Section 401 Cr.P.C. challenging the impugned order dated 3.4.2014 passed by Special Judge, Patiala, whereby charges have been framed against him.

Criminal Misc. No.M-27759 of 2014 has been filed Harbans Singh, Charan Singh and Bhajan Singh against State of Punjab and Inspector, Police Station, Vigilance Bureau, Patiala, under Section 482 Cr.P.C. seeking quashing of FIR No.29 dated 8.6.2005 registered for the offences under Sections 166, 167, 175, 177, 191, 192, 196, 208, 209, 217,

218, 406, 409, 120-B IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 at Police Station Vigilance Bureau, Patiala.

Notice of motion has been issued in Criminal Revision Nos.2903 of 2013 and 2042 of 2014.

Mr. Varun Sharma, learned Assistant Advocate General, Punjab has put in appearance on behalf of respondent-State and contested these petitions.

I have heard learned counsel for the petitioners and learned Assistant Advocate General, Punjab, appearing for the respondent-State and have gone through the record.

In all the petitions charges framed against the petitioners and the revision petitioners and even the quashing of the FIR is almost on the same ground and has also been challenged along with framing of charge.

As per the FIR, the same has been registered on the basis of information received by the Chief Officer, Vigilance Bureau, District Patiala that the land owners while filing petition for enhanced compensation above the Collector rates, before the Court calculated the compensation on exaggerated amount. The Kanungo of the Receiver, Industrial Department Shri Basant Singh did not submit the calculations in the Court or to the PSIEC within time. The duty of Shri Basant Singh former Patwari office of the Receiver, Industrial Department, Punjab, Chandigarh, was to prepare the fresh calculations for compensation in respect of the new record for each decree holder, but he did not prepare

these calculations within time. He neither submitted these calculations to his higher ups nor to the concerned organization PSIEC nor in the Court of learned Additional District Judge, Patiala. Due to this, the payments as per the excess amount claimed by the decree holders had to be paid by the PSIEC as the bank accounts were attached by the Court. In the case of “Bhajan Singh etc. Versus State of Punjab”, Shri Basant Singh Kanungo with bad intention with a view to extend undue benefit to the decree holders sent two cases regarding the same land/Khasra numbers of the same area one after the other to the Court and helped Bhajan Singh etc. to get two decrees from the Court and in pursuance to the orders passed in both the decrees helped these decree holders to get the enhanced compensation twice. It is also in the FIR that the Government had suffered financial loss due to this. Senior Law Officer R.K. Goel with ill-intention secretly conspired and committed fraud with PSIEC and Punjab Government and did not perform his Government duty in a proper manner and by misusing his position and powers helped the decree holders to get higher compensation than the enhancement due. Shri R.K. Goel at his own level instructed Avinash Kumar, Advocate, to appear in the Court and did not take any action in respect of wrong statement/consent statements dated 16.11.1999 and 8.8.2000 made by Avinash Kumar, Advocate and did not inform the higher officers in this respect. The decree holders were successful in getting higher financial benefit and the PSIEC suffered financial loss. Boota Singh, Manager, Personal prepared such official papers from which it appears that PSIEC had suffered no loss and all the

persons were innocent. He being in collusion did not inform his higher officers regarding the above misdeeds and did not bring these to their notice.

After the investigation, challan was presented. The learned trial Court finding prima facie case against the accused, framed charges against the present petitioners. It is argued at the time of arguments by the learned counsel for the petitioners that no offence is made out. The amount has been paid in execution proceedings by the Courts and even the excess amount has already been got recovered from the petitioners/land owners.

From the record, I find that there is allegation against the present petitioners as per the FIR that they connived with each other. Mr. R.K. Goel, who was Senior Law Officer had appointed Avinash Kumar, Advocate unauthorizedly to appear in the Court, who gave the statements in the execution proceedings that he has no objection if the amount is released. Non-informing the Department and other higher officers is alleged to have been part of the conspiracy. It is further the case of the prosecution that no calculations were got prepared regarding correct compensation. Similarly, exaggerated amount had been taken by the land owners and Bhajan Singh etc. had taken the compensation two times regarding the same Khasra numbers in connivance with each other. The mere fact that the excess amount had already been deposited or paid is no ground that no offence is committed.

At the time of framing of the charge, the Court is not to weigh

[6]

evidence for the purpose of conviction. The Court is only to see whether it is a case of no evidence or there is some evidence. Even a strong suspicion is sufficient for framing of the charge. From the perusal of the record, in no way, it can be held that no offence is made out. Nor, in any way, it can be held that registration of the FIR is misuse or abuse of the process of the Court.

Therefore, in view of the above discussion, I do not find any merit in these revision petitions challenging the orders of framing of charges and criminal miscellaneous petition for quashing of FIR and the same are dismissed.

January 19, 2015.

(Inderjit Singh)
Judge

hsp