

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

Date of decision: December 21, 2016
CRM-M-13784 of 2013

Rajat Rajendra Singhal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CRM-M-37302 of 2015

Rajender Singla and others

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. K.S. Banyana, Advocate for
Mr. Vishal Gupta, Advocate for the petitioner(s).

None for the petitioners (in CRM-M-37302 of 2015).

Mr. A.S. Yadav, AAG Haryana.

Mr. Dinesh Arora, Advocate for respondent No.2.

A.B. CHAUDHARI, J

In these two petitions, the petitioners have prayed for quashing of FIR No.26 dated 26.01.2012, under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station City Thanesar, District Kurukshetra.

CRM-M-13784 of 2013 was filed by Rajat Rajendra Singhal while CRM-M-37302 of 2015 filed by Rajender Singla, Dheeraj Singla and Suneel Kumar Gupta.

FACTS

Respondent No.2-Ram Chander Singh son of Sh. Sube Singh, resident of Village Karala, Delhi had lodged the above said FIR with the Police Station City Thanesar, District Kurukshetra, on 26.01.2012. In the FIR, which was sent through *dak* from the office of Superintendent of Police, Kurukshetra to the aforesaid Police Station, he stated that in the year 2004-2005, Municipal Committee Shopping Complex was to be constructed in Thanesar and M/s Sarvottam Construction Company had applied for the work by tender. He stated that when M/s Sarvottam Construction had applied for enlistment, it came to know that the experience of Sh. Dharampal, one of the partner of the firm, was not sufficient to get Class-I contractor certificate and therefore, the firm included Sunil Kumar Gupta for obtaining Class-I enlistment certificate and thus, cheated the Government by preparing two separate partnerships for one firm including the name of Sunil Kumar Gupta. This fact is corroborated from the Power of Attorney dated 01.01.2005 in which there is only 4 partners except Sunil Kumar Gupta. The allegations were therefore, that another partnership deed was prepared in order to get the said certificate. It was thus, alleged that there was a fraud and forgery. The complaint appears to have been sent by respondent No.2, who is the resident of Delhi and the same was received by Police Station City Thanesar through *dak* from the office of Superintendent of Police, Kurukshetra. After registration of the offences, investigation was completed by the police. It is this FIR,

which is under challenge in the present both these petitions.

SUBMISSIONS

Learned counsel for the petitioners, in both these petitions, submitted that the FIR out and out is false and having no connection with respondent No.2 who was merely a driver of respondent No.3 who had family dispute with one of the petitioners. Respondent No.2 is a resident of Delhi and has absolutely, no connection to lodge FIR in relation to the work of construction of Municipal Committee Shopping complex at Thanesar, District Kurukshetra. Learned counsel then submitted that in respect of the work in the year 2004-2005, the FIR was got lodged in the year 2011 as aforesaid which is self-shown that the same was delayed and bogus. According to the learned counsel for the petitioners, even otherwise reading of the FIR, nowhere makes out any case for registration of FIR as aforesaid. He relied on the several grounds taken in the present petition for quashing the FIR. He, then contended that now respondent No.2-Ram Chander Singh son of Sube Singh has also filed an affidavit dated 08.09.2015 in this Court by way of reply to these petitions that he does not want to pursue the present FIR and has no objection, if the same is quashed by this Court since respondent No.3-Dheeraj Garg son of Krishan Kumar Garg has arrived at a compromise and also filed reply by way of affidavit that he has no concern with the present FIR. Learned counsel for the petitioners, therefore, contended that for the above reasons, the FIR and consequent proceedings are required to be quashed in both these

petitions.

Learned State counsel invited my attention to the reply by way of affidavit of Satish Gautam, HPS, Deputy Superintendent of Police (HQ), Kurukshetra and contended that investigation was conducted in fair and impartial manner and report under Section 173 of Code of Criminal Procedure, 1973 was submitted against the petitioners and co-accused in the concerned Court. Learned State counsel, therefore, prayed for dismissal of these petitions.

Learned counsel for respondent No.2 appears and filed another affidavit of respondent No.2 in response to the show-cause notice of this Court stating that he had decided to agree for quashment of FIR as the case was lingering and left out to the Court to make suitable orders.

CONSIDERATIONS

This Court vide order dated 23.08.2016, at the time of hearing these two petitions, made following order:-

“Heard learned counsel for the petitioners in both these cases.

My attention has been invited to the affidavit (Annexure P-9) filed by respondent No.2-Ram Chander Singh son of Sube Singh who had set the criminal law in motion as a result of which, FIR in question was registered in the year 2012 and the entire State machinery was moved. Challan was also filed. Now, in the affidavit of respondent No.2, it is stated in Para-1 that he does not want to pursue the present FIR. Though served, none appears for respondent No.2 before this Court today.

Respondent No.2 is put a notice on show-cause as to why exemplary costs in the sum of ₹1 lacs in each case, should not be recovered from him and paid to the State of Haryana in the above background.

List again on 30.09.2016.

Ad-interim stay of the proceedings till then.

Learned counsel for the petitioners are expected to inform the next date of hearing fixed before the trial Court, in writing to respondent No.2 and place on record the proof.

A photocopy of this order be placed on the another connected case file.”

In response to the aforesaid show-cause notice, respondent No.2 has filed an affidavit stating that since proceedings were lingering, he agreed for quashment of the FIR. It is in the light of the attitude of respondent No.2 to blow hot and cold, this Court was prima-facie of the opinion that respondent No.2 has abused the process of rule of law and therefore, should be imposed with exemplary costs and also to proceed against him for interfering in the administration of the criminal justice system.

Be that as it may, coming back to the merits of the present matters, I have already reproduced the crux of the FIR that was lodged by respondent No.2. Upon careful reading of the entire FIR, it will be clearly seen that same was lodged after 7 years of the alleged date of occurrence of the incident for which there is no explanation anywhere. Assuming no such explanation is required, looking at the FIR carefully shows that except for making the allegation that some Power of Attorney dated 01.01.2005 shows that M/s Sarvottam Construction

Company has only 4 persons and name of Sunil Kumar Gupta was not mentioned only, there is no other allegation about any fraud, forgery or as the case may be. It is also not in dispute that respondent No.2 is a driver who resides at Delhi and working as a driver, suddenly came down to Thanesar, District Kurukshetra and lodge FIR in question, that too after 7 years of the date of occurrence, without indicating as to how he was aggrieved or concerned with the contract of construction of the Municipal Committee Shopping Complex at Thanesar when he had nothing to do with the place Thanesar being the resident of Delhi. There is no allegation anyway that the work done by the petitioners' firm was anyway of bad quality or not upkeeping with the standards. On the contrary, record shows that there is certificate about satisfactory completion of work. Thus, the only allegation made against the petitioners is that they have prepared some forged Power of Attorney and included the name of Sunil Kumar Gupta as additional partner in the firm. Beyond this, there is nothing in the FIR which cause to any offence as registered with the Police Station Thanesar. The reply by way of affidavit filed by the learned State counsel read thus:-

“xxxx. Further, a power of attorney dated 01.01.2005 shows that Ms/ Sarvotam Construction Company has four partners nameky Sh. Rajinder Singal, Sh. Dharampal, Sh. Rajat Singal and Sh. Dheeraj Singal. Name of Sh. Sunil Kumar was not mentioned in it. A forged certificate mentioning that Sh. Sunil Kumar is share holder to the extent of 50% in M/s Naresh Kumar Gupta & Co. Pvt. Ltd.

was also used by M/s Sarvotam Construction Company.

A forged and fabricated certificate from M/s Goel and associates was also arranged by M/s Sarvotam Construction Company wherein it was mentioned that M/s Sarvotam Construction Company is working with it for a number of years and it has experience of undertaking work of crores of rupees.

That investigation of above said case FIR No.26 dated 26.01.12 was conducted in a fair and impartial manner. During investigation, it was found that the petitioner was also beneficiary of the firm and two partnership deeds were prepared in the same date for the same firm and some other relevant record was also taken in possession. The allegations against petitioner along with other co-accused were established during investigation, so report under section 173 Cr. P.C. was submitted against petitioner and his co-accused persons in the concerned court. xxxx.”

A perusal of the above reply by way of affidavit shows that in fact, there is no offence at all made out from the reading of the FIR or whatever has been stated in the reply by way of affidavit aforesaid. The State is not disputing about the satisfactory completion of work nor there is answer given by the State as to the *locus standi* of respondent No.2 to lodge FIR with the Police Station Thanesar, in respect of the work of Municipal Committee Shopping Complex being the resident of Delhi and has nothing to do with the place Thanesar. In my opinion, it is a clear case of abuse of process of law by respondent No.2 and accordingly, he is liable to be prosecuted in the criminal

contempt proceedings for interference in the criminal justice delivery system. However, taking a magnanimity, I think, looking to the entire matter, there is no need to add one more case particularly, when respondent No.2 is working as a driver. Respondent No.2 however, deserves to be given some punishment and in that view of the matter, I think, he must be asked to deposit costs in the sum of Rs.10,000/- with the office of Superintendent of Police, Kurukshetra. In the result, following order will have to be passed:-

ORDER

- (i) CRM-M-13784 of 2013 and CRM-M-37302 of 2015 are allowed;
- (ii) FIR No.26 dated 26.01.2012, under Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station City Thanesar, District Kurukshetra including the charge, challan before the trial Court stands quashed and set aside;
- (iii) Respondent No.2 shall pay costs in the sum of Rs.10,000/- with the office of Superintendent of Police, Kurukshetra within 3 months from the date of receipt of certified copy of this order, failing which the same shall be recovered by Superintendent of Police, Kurukshetra in accordance with law.

(A.B. CHAUDHARI)
JUDGE

December 21, 2016

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No