

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM No.M-14450 of 2016(O&M)****Date of Decision: May 02, 2016**

Sanjay Sharma

...Petitioner

VERSUS

Employees Provident Funds Inspector, Jalandhar

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Bhrigu Dutt Sharma, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondent Employees Provident Funds Inspector, Jalandhar for quashing of criminal complaint bearing No.107 dated 15.11.2013, summoning order dated 15.11.2013 passed by learned Chief Judicial Magistrate, Jalandhar and also the judgment dated 07.01.2016 passed by learned Sessions Judge, Jalandhar, vide which the revision petition filed by the petitioner was dismissed.

From the record, I find that a complaint has been filed by the present respondent against the petitioner under Section 14(1) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 etc.

Learned counsel for the petitioner argued that the present

petitioner cannot be summoned as he is not the authorized representative. He further argued that as per Annexure P-4, which is form No.5A, the present petitioner has not been shown as authorized signatory.

I have heard learned counsel for the petitioner and have gone through the record.

I find that the present petitioner has been summoned in the aforesaid complaint. The petitioner filed the revision against the summoning order, which has already been dismissed. No provision has been shown to this Court vide which only authorized signatory is liable under the said Act.

Learned counsel for the petitioner put much reliance on paragraph 36-A of the Employees Provident Funds Scheme, 1952, which reads as under:-

36-A. Employer to furnish particulars of ownership-

“Every employer in relation to a factory or other establishment to which the Act applies on the date of coming into force of the Employees’ Provident Funds (Tenth Amendment) Scheme, 1961, or is applied after that date, shall furnish [in duplicate] to the Regional Commissioner in Form No. 5A annexed hereto, [particulars of all the branches and departments, owners], occupiers, directors, partners, manager or any other person or persons who have the ultimate control over the affairs of such factory or establishment and also send intimation of any change in such particulars, within fifteen days of such change, to the Regional Commissioner by registered post and in such other manner as may be specified by the Regional Commissioner:

Provided that in the case of any employer of a factory or other establishment to which the Act and the Family Pension Scheme, 1971, shall apply the aforesaid Form may be deemed to satisfy the requirements of the Employees’ Family Pension Scheme, 1971, for the purpose specified above.

Provided further that the above mentioned details shall be furnished by the employer in the electronic format also, in such form and manner as may be specified by the Commissioner.”

I have gone through the above paragraph of the Scheme. It nowhere states that only authorized signatory will be liable. It only asks for the information of the Directors/Partners/Managers or any other person or persons who have the ultimate control over the affairs of such factory.

From the above discussion, I do not find anything from which it can be held that present petitioner is not liable to be summoned or complaint is not maintainable against the present petitioner.

Learned counsel for the petitioner relied upon the law laid down by the Hon'ble Supreme Court in ***R.Banerjee and others vs. H.D.Dube and others, 1992(2) RCR (Criminal) 81.*** I have gone through the above-cited case and the same having distinguished facts will not apply in the present case as that case relates to Prevention of Food Adulteration Act, 1954 where specific provisions have been mentioned to nominate a person by a company who can be prosecuted, if it is shown that the offence is committed etc.

Therefore, finding no merit in the present petition, the same is dismissed.

May 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE