

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

CRM-M-27882 of 2014

Date of Decision: May 19, 2016

Shekher Rana

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sherry K. Singla, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

FATEH DEEP SINGH, J.

This is a petition under Section 482 Cr.P.C, whereby, the petitioner-accused Shekhar Rana, Sarpanch of Gram Panchayat, Village Kalron who is being prosecuted on the complaint moved by respondent No.2/BDPO, Gharaunda, Karnal has sought quashment of the FIR No.418 dated 08.11.2012 under Sections 409,420 IPC Police Station, Madhuban, District Karnal (Annexure P/1) registered on the basis of this complaint for having embezzled public funds amounting to a sum of ₹31,57,800/-. The undisputed facts that are highlighted by the petitioner as well as in the reply of the respondents are that during the years 2011-12, 2012-13 while the petitioner was Sarpanch of the Village the Gram Panchayat has earned ₹29,46,400/- and ₹1,57,800/- respectively being income from leasing out of

the land of the Gram Panchayat. It was during the course of events when SDO (Civil) came to know of this that there has been bungling in the Gram Panchayat funds by the petitioner an inquiry was conducted and it was found out that in the year 2012-13 though the Gram Panchayat had earned admittedly ₹31,57,800/- as lease amount of sham-lat deh land but out of which only a sum of ₹1,24,800/- were deposited in the State Bank of India, Anaz Mandi, Karnal account of the Panchayat on 05.12.2012 and the remaining amount of ₹30,33,010/- is claimed to have been used by the Sarpanch for purchase of tubewells, transformers and electric connection and other development works. However, all these bills were found to be not appropriate as they were neither attested nor entered in the stock register nor in the M.B. book of JE/SDO, Panchayati Raj concerned and, thus, was in utter violation of the provisions. It is the stand of the respondent-State that this amount of ₹30,33,010/- for which there was no legitimate explanation was deemed to have been embezzled.

The precise contentions on which this invocation has been made are that earlier the petitioner-Sarpanch filed criminal complaint against respondent No.2/BDPO on account of which the present case has been got registered as a vengeance and that the entire allegations do not come within the domain of embezzlement.

Going through the arguments of learned counsel for the parties so far as the contentions of the counsel for the petitioner that it is a case got registered by respondent No.2/BDPO as a outcome of vengeance certainly does not impress the Court much. No doubt, it is not refuted by the learned state counsel that the petitioner has earlier filed complaint under

Sections 161,162,163,229,417,419 IPC read with Sections 7 and 13 of the Prevention of Corruption Act, 1988 against respondent No.2 but the same has been dismissed by the trial Court on 11.8.2012 and the same was never brought to any logical conclusion and was dismissed on the very initial stage. Further more, a perusal of the complaint on record shows that the present complaint leading to the registration of the FIR was made to the SHO, Police Station, Madhuban on 26.2.2012 and when the complaint on which the petitioner's counsel has already relied was filed on 3.8.2012 much after the registration of the FIR and rather to the mind of of this Court the subsequent complaint by the petitioner was rather with an oblique motive to thwart and desist respondent No.2 from pursuing the case of embezzlement against the petitioner and, thus, the petitioner cannot take any benefit out of this contention. In the light of the submissions of the State counsel based on its reply to this petition the matter has already been investigated and challan has been submitted. It is the own stand of the petitioner's counsel that without depositing part of lease amount in the Bank as required the Sarpanch had spent the amount on various so called development works. It is well established stand of the State that neither bills so relied were entered in the stock register nor cancelled nor the articles have been entered in the M.B book of JE/SDO of Panchayati Raj and is in even utter violation of the letter of department bearing No.67055 dated 01.10.2011. Apparently the petitioner was supposed to deposit the amount so collected in the account of the Panchayat and then spent it and rather as is submitted during investigations it has transpired that these bills were fictitiously prepared. As per the averments that a bill for sum of

₹16,15,468/- purported to have been made to M/s Shubham Electric was a fictitious and rather it has transpired that no such payment was ever made to any such agency as claimed by the petitioner. More so, it is well settled law reliance of which can be taken note from *State of Haryana and others vs. Ch. Bhajan Lal and others AIR 1992 S.C. 604* that exercise of powers under Section 482 for quashment of FIR and its consequences is to be very sparingly used only in the rarest of rare case where ends of justice so demands. What has sought to be projected by the petitioner in his petition is more of a factual averment and which can only be comprehensively adjudicated through leading of evidence. The defence, if any, of the petitioner cannot be used at this stage in the absence of any legitimate proof to quash the proceedings.

Thus, in the totality of what has been detailed and discussed above there is total lack of any ingredient for showing indulgence by this Court. The petition being hopelessly without any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

May 19, 2016
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