

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

Cr. Misc. M 33859 of 2016
Date of decision: 23.9.2016

Gagandeep Jindal

Petitioner

vs.

State of Punjab and others

Respondent

Present: Mr. DS Malwai, Advocate.

M.M.S.BEDI,J.

The petitioner has been booked in a criminal case on the complaint of District Manager, Punjab State Warehousing Corporation (for short ' the Corporation') on the allegation that the petitioner had caused loss to the Corporation by not delivering the rice after custom milling for the crop year 2009-10.

The petitioner seeks quashing of the FIR and the criminal proceedings inter alia on the ground that the milled rice has been dealt with by the complainant Corporation as per the orders of the High Court in CWP 17437 of 2011 decided on 17.8.2012 and LPA No. 1366 of 2012 decided on 7.9.2012, respectively. Without taking into consideration the orders of the High Court and the steps taken on the basis of the orders of the High Court, the petitioner has been involved in the case despite the fact that the matter regarding recovery of money on account of custom milling has already been adjudicated upon by the Arbitrator and after the decision of the Arbitrator, the same is being again looked into by the court in exercise of powers u/s 34 of the Arbitration and Conciliation Act.

Counsel for the petitioner has submitted that the stock for the

crop year 2009-10 was disposed of by the petitioner after a period of 3 years as there had been insufficiency of storage space. The meager shortage is the result of natural consequences on account of improper storage. The circumstances, the statements already recorded during the course of investigation and the documents having relevance to the fair investigation and the culpability of the petitioner, are required to be taken into consideration by the investigating agency. The petitioner appears to have submitted a detailed history of disbursal of the stocks to the DIG, Ludhiana, which was noticed in the proceedings recorded in the instant FIR No. 36 of 31.5.2016.

Notice of motion. On the asking of the court, notice has been accepted by Ms. Simsi Dhir, DAG, Punjab. Copy given.

This petition is disposed of at this stage as not maintainable being pre-mature. However, a direction is issued that all the material facts, the relevant admissible documents and any statements voluntarily offered by the witnesses, will be taken in to consideration, as per the mandate of Section 163(2) Cr.P.C. by the investigating agency before forming an opinion regarding culpability of the petitioner. In case of any controversy regarding the legal and factual position, it will always be open to the Commissioner of Police, Ludhiana to constitute a Special Investigating Team for the fair investigation of the case.

September 23 ,2016
TSM

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether Reportable

Yes/ No