

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

CRR No. 909 of 2015

Date of decision :12.04.2016

Keemat Singh

....Petitioner

V/s

State of Punjab & anr.

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. H.S. Gill, Sr. Advocate with
Mr. Nitin Rampal, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. A.G. Punjab.

Mr. Harkirat Singh, Advocate for respondent no. 2.

RAJAN GUPTA J.

Petitioner has posed a challenge to the order framing charge against him. He has inter alia submitted that initially an untraced report was submitted in the case. The court thereafter directed re-investigation. Pursuant to same, challan was presented and charge framed against the accused. According to Mr. Gill, order of re-investigation is unsustainable. He has relied upon judgments reported as *Reeta Nag vs. State of West Bengal & ors.* 2009(4) RCR (Criminal) 207 and *Ramachandran vs. R. Udhayakumar & ors.* 2008(3) RCR (Criminal) 47.

Prayer has been opposed by learned State counsel. According to her, a trap was laid by the investigating agency. Petitioner was apprehended while accepting a bribe of ₹10,000/-. Phthalein test was conducted which was positive. Deputy Superintendent of Police who apprehended the accused red handed has himself exonerated the accused. She was filed affidavit of

Rupinder Singh, Senior Superintendent of Police, Vigilance Bureau Ludhiana. Referring to same she submits that departmental action has also been initiated against the concerned Deputy Superintendent of Police. She further submitted that order dated 16.11.2013 was never challenge by the petitioner. According to her, after the said order, investigating agency took up further investigation. The nomenclature used in the in the said order cannot be strictly construed.

I have heard learned counsel for the parties.

A complaint was made by Daljit Singh alleging that he had met Halqua Patwari namely Keemat Singh in connection with partition of his land. For this purpose, he asked for bribe of ₹50,000/-. Amount was ultimately settled at ₹40,000/-. It was decided that first installment of the bribe would be paid on 25.03.2011. Complainant approached the Vigilance Bureau which laid a trap. Ten currency notes of one thousand each were handed-over to Patwari Keemat Singh (petitioner herein). He was caught red handed by the party. Trap was laid by DSP Gurcharan Singh. Said officer later prepared final report under section 173 Cr.P.C. and same officer later filed an untraced report before the court assigning the reason that complainant Daljit Singh had misrepresented before the investigating agency. This was due to earlier altercation between complainant and the accused. He also recommended that proceedings be initiated against the complainant under section 182 Cr.P.C. The trial court did not accept the untraced report and referred the matter back to Vigilance Bureau for re-investigation. This order was never challenged by the petitioner. After completion of investigation, challan was presented.

Pursuant to same, charge has also been framed. Proceedings have been challenged primarily on the ground that 're-investigation' of the case could not have been undertaken by the investigating agency. I, however, find merit in the plea of the State that nomenclature used in the order dated 16.11.2013 is not relevant. It is evident that investigation was handed-over to a different Officer namely DySP Bikramjit Singh. From the perusal of the final report submitted, it appears that further investigation was undertaken by the said Officer. He found that in the trap laid by the investigating agency, the witnesses who were joined had stood by their statements. Thereafter, sanction was duly granted by the department. Besides, it is on record that petitioner never posed a challenge to order dated 16.11.2013 passed by Special Judge, Ludhiana. Judgments in *Reeta Nag* and *Ramachandran* cases (supra) cited by the petitioners cannot help his case as matter is of red hand recovery. The Officer who laid the trap is facing departmental proceedings for submitting an untraced report despite having laid the trap himself. The shadow witness and the trap witness who are government officials have supported the case of the investigating agency. It appears that these statements were conveniently ignored by DySP Gurcharan Singh. Admittedly, investigation was thereafter taken up by a different officer which appears to be in the nature of further investigation.

Revision petition is, thus, without any merit and is hereby dismissed.

April 12, 2016

Ajay

(RAJAN GUPTA)
JUDGE