

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

CRM-M-16082-2015 &

Date of decision: September 8, 2017.

Surender Singh Chauhan

... **Petitioner**

v.

State of Haryana and another

... **Respondents**

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

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Keshav Pratap Singh, Advocate and
Mr. Shiv Kumar, Advocate for the petitioner.
Mr. Chetan Sharma, AAG, Haryana
Mr. P.M. Chauhan, Advocate for respondent No.2.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith.

The petitioner is an advocate working in District Courts, Karnal. He has put to challenge the orders dated 18.01.2012 passed by Additional Sessions Judge, Karnal. In FIR No.727 dated 09.11.2009 (Annexure P-1) registered under section 12 of the Prevention of Corruption Act, 1988, Police Station Civil Lines, Karnal against the petitioner, the investigation was carried out by the police and was completed and a final report dated 13.04.2015 (Annexure P-7) was filed with the competent court. The investigation mentioned in the report that no offence as such was found during investigation against the petitioner and in so far as the Ld. Concerned Judge was concerned, his matter was taken by the Vigilance Department of the High Court, which undertook the investigation. It is not

in dispute in the independent enquiry that was conducted by the High Court, no adverse report was made against the judge in respect of whom insofar as the present petitioner is concerned, the investigating officer concluded his report by saying as under:-

“But as per the statement of complainant/petitioner on which based this said case was registered that on dated 18.12.2007 he and Krishan were went to Rewari to met with Advocate S.S. Chauhan. From the investigation conducted till now, no sufficient evidence for challan has come up against Shri A.K. Bimal the then ADJ and against the accused Surender Singh Chauhan Advocate offence U/s of PC Act 1988 has come up to enable file the challan. Against the accused Surinder Singh Chauhan s/o Sh. Parmal Singh caste rajput resident of village Jadoli Thana Kujpura District Karnal Advocate hall chander No.215 District Court Karnal Khana No.2 has been prepared. And list of witnesses also attached with challan. The witness be summoned and action accordance with law be initiated against accused mentioned in Khana no.2.”

It is clear from the above concluding report that in the absence of any evidence against the petitioner, the investigating officer recommended that the petitioner should be put in column no.2 and not in column no.1 as an accused. On that report, the trial court had made an order on 18.01.2012, which reads thus:-

“Challan presented today. It be checked and registered. Notice be given to accused for 28.02.2012.”

The aforesaid order could not have been passed without looking at the papers filed by the Investigating Officer who had recommended putting the name of the petitioner in column no.2.

Thereafter, Deputy Commissioner of Police (Crime Branch), Panchkula filed one more report (Annexure P-7) and the following

statements were made in the said report:-

“From the statement of Ajay Kumar, he has stated that he had no complaint from Surinder Chauhan, Advocate, he had only filed a transfer petition in the Hon’ble High Court and he has never any complaint against Surinder Chauhan Advocate, neither now he has any complaint against him and the challan has already been filed in the Court.”

The Learned Trial Court made another order dated 28.04.2015 (Annexure P-8) with the following operative part:-

“As discussed above, as per the report submitted by the investigating agency, no new fact has surfaced which requires for further investigation and as such, the matter has been reverted back to the stage, when challan was filed in the Court on 18.01.2012. On the same day, notice to the accused was also issued. The application for anticipatory bail of accused has already been dismissed vide order dated 22.02.2012 passed by my learned predecessor Ms. Raj Rahul Garg, the then, learned Sessions Judge, Karnal. Therefore, fresh notice to the accused Surender Singh Chauhan in terms of order dated 18.01.2012 be issued for 30.07.2015.”

At the hearing of the present petitions, counsel for the complainant – respondent no.2 appeared before this court and stated that he has no objection for dropping the proceedings. Learned counsel for the State however submits that the matter can be remanded to the trial court for fresh consideration, rather than, dropping the proceedings.

Upon hearing, learned counsel for the rival parties, I find, as stated above, that the above reports themselves shows that the recommendation to drop the proceedings against the petitioner for want of evidence, there is no evidence placed before me by the State, nor there is any material on record to send the matter to the trial court for fresh consideration, which in my opinion would be an exercise in futility. This

court is satisfied looking at the record and the investigation reports, that there is no possibility of trial ending in conviction and there is no point in rejecting the cancellation report filed by the investigating officer. Rather, the respondent no.2 – complainant has compromised or not, would not be relevant. On merits, thus, I find that there is no warrant for asking the trial court to re-consider the issue. In that view of the matter, the petitions must succeed. In the result, petitions are allowed and Rule is made absolute in terms of the prayer clause, which reads thus:-

“Petition under section 482 Cr.P.C. for summoning of the record of the case and quashing of impugned order dated 28.04.2015 (Annexure P-8) passed by the court of Sh. Jasbir Singh, ASJ, Karnal which is continuation of the order dated 18.01.2012 as well as impugned order dated 18.01.2012 passed by the court of Mrs. Raj Rahul Garg, Ld. Session Judge, Karnal (Annexure P-6);”

September 08, 2017.

kadyan

[A.B. Chaudhari]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No