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

CRM-M-22310 of 2014

Date of decision: August 29, 2017

Dr. Mrs. Naresh Saini

.....Petitioner

Versus

State of Haryana and another

.....Respondents

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

Present: Mr. Sandeep Singh Jattan, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG haryana.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the petitioner as well as learned
State counsel.

This is a petition for expunging the remarks/observations
against the petitioner in judgment dated 23.03.2012 passed by
Additional Sessions Judge-cum-Special Judge, Karnal, arising out of
FIR No.420 dated 01.09.2008, under Sections 7, 13(2) of Prevention
of Corruption Act, 1988 (for short 'P.C. Act'), registered at Police
Station Civil Lines, Karnal.

Learned counsel for the petitioner submits that petitioner-
Dr. Naresh Saini was working as CMO at the relevant time in Civil
Hospital, Karnal. In the trial that was held arising out of PC Act case
No.(RBT) 15 of 2010, the prosecution had filed a charge-sheet against
accused-Dr. Samrat Harsh Sehgal, in the Court of Special Judge,
Karnal, under the P.C. Act. In the trial, his evidence was taken. But the

petitioner, who was CMO was never either cited as a witness or examined as a witness before the trial Court in the trial. Nevertheless, the trial Court has made observations and sketchy remarks, in Para 56 of its judgement above, against the present petitioner. He submits that the petitioner did not have any opportunity given by the learned Special Judge before making those remarks against her. The principles of natural justice were thus, violated in her case. The petitioner was entitled to be heard, if at all, the learned Judge wanted to make some remarks against her adverse to her career and interest. He relied on the decision in the case of **Om Parkash Chautala versus Kanwar Bhan and others**, 2014 (5) SCC 417.

Per contra, learned State counsel submits that the remarks might be justified and therefore, no interference is required to be made.

Upon hearing learned counsel for the rival parties, I find that the remarks have been made by the trial Court, in Para 56 of its judgement, which read thus:-

“56. As sequel to above discussion, it is held that the prosecution has miserably failed to prove its case on any of the points with cogent, and reliable evidence beyond the shadow of doubt, rather, the defence of the accused that he has been falsely implicated by PW11 in collusion with then CMO, by manipulating and concocting all the proceedings of trap and arrest of the accused for this crime is proved to be well founded and thus also goes to prove that it is a case of false implication with malafide intention and thus a fit case where the accused is entitled for acquittal without any blemish whatsoever and thus stands acquitted

accordingly. His bail bonds stands discharged. As far as the plea raised by defence counsel that PW-11 along with all the guilty to brought to books for this case, is concerned, since the outcome of this judgment leads to multifarious actions against so many persons, the accused is at liberty to initiate whatever action he wants or can approach the court of law for the same as per the procedure provided under the law and this Court refrains itself to do so at this stage, though it goes without saying that it is fit case where criminal action is required to be initiated against all involved in this malicious prosecution of the accused. File be consigned to record room.”

The record nowhere shows that the learned Special Judge had given a show-cause notice or called for explanation of the petitioner before making the remarks against her, in Para 56 of its judgement above. It is a well settled legal position that no person can be condemned unheard. Therefore, the rule of *audi alteram partem* must be followed. Perusal of Para 56 above and the entire judgment nowhere show that the petitioner was at all given a notice of hearing before making disparaging remarks against her. The nature of remarks are such that are bound to effect the petitioner in her career and society. After all, the trial Court ought to have considered that the petitioner has been occupying the position of a CMO in a Government organization and cannot be condemned in the manner that has been done that too without hearing her. In that view of the matter, this petition must succeed.

To sum up, this petition must be allowed. Remarks made

against the petitioner, in Para 56 of judgment dated 23.03.2012 passed by Additional Sessions Judge-cum-Special Judge, Karnal are ordered to be deleted.

(A.B. CHAUDHARI)
JUDGE

August 29, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No