

245

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

CRM-M-23118 of 2015

Date of decision: October 27, 2017

Vinod Kumar Chaudhary

.....Petitioner

Versus

State of Punjab

.....Respondent

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

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

Mr. Ramandeep Sandhu, Sr. DAG Punjab.

Mr. Arshdeep Singh Sra, Advocate for
Mr. M.S. Tiwana, Advocate for the complainant.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of order dated 28.05.2015 (Annexure P-6) (in which the cancellation report dated 21.05.2014 under Section 173 of the Code of Criminal Procedure (Annexure P-5) is treated as challan) and further for issuance of directions to the police to submit the list of witnesses and further for issuance of notice to the petitioner.

Upon perusal of the petition and accompanying documents and upon hearing learned counsel for the rival parties, it appears that the cancellation report has been filed in the matter as the investigation agency has recommended taking departmental action of the Punjab Civil Services (Punishment and Appeal) Rules 1970 under Rule 8.

It is also not in dispute that thereafter a departmental enquiry was conducted and the charges against the petitioner were not found to be proved.

As a sequel, the Government of Punjab exonerated the petitioner

from the charges levelled against him in the departmental enquiry vide order dated 28.05.2015. Thus the recommendation made by the investigating agency to proceed against the petitioner departmentally instead of proceeding in the criminal trial became final. The cancellation report that was filed by the agency was however not accepted by the impugned order which is under challenge in the present petition. It is an admitted position that the Government of Punjab as the specified authority under Section 19(1) of the Prevention and Corruption Act declined to grant sanction for whatever reasons good or bad. Perhaps the government accepted the recommendation of the agency to proceed against the petitioner departmentally rather than in a criminal case. It appears that the petitioner was not caught red handed while taking the bribe money is one of the reasons for adopting the said course of action. This Court would not like to go into the said aspect of the matter because in the absence of sanction by the specified authority under Section 19 (1) of the Prevention and Corruption Act, the cognizance cannot be taken.

In that view of the matter, I make the following order:

ORDER

- (i) CRL. MISC. No.M-23118 OF 2015 is allowed.
- (ii) Order dated 28.05.2015 passed by the Learned Special Judge, Bathinda is quashed and set aside.

(A.B. CHAUDHARI)
JUDGE

October 27, 2017
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Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No