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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33784-2015 [O&M]

Date of Decision:- November 21, 2017

M/s Rana Polycot Limited

....Petitioner

Versus

Surinder Singh Taxak and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. S.K.Nehra, Advocate,
and Mr. Rahul Sharma-1, Advocate,
for the petitioner.

Mr. K.K.Gupta, Advocate,
for respondent no.1.

SHEKHER DHAWAN, J.

Present petition under Section 482 of Code of Criminal Procedure is for quashing of impugned order dated 30.7.2015 (Annexure P/2) passed by learned Judicial Magistrate Ist Class, Chandigarh, whereby the petitioner was asked to produce certain documents in preliminary evidence in Criminal Complaint No. 53 of 2014 dated 15.2.2014 (Annexure P/1) in which the petitioner-Company was arrayed as accused No.3.

2 Learned counsel for the petitioner contended that the petitioner has been arrayed as accused No.3 in the complaint, Annexure P/1, vide order Annexure P/2, it has been asked to produce documentary evidence and the said order is liable to be quashed because no person can be compelled to produce evidence against himself, which is violative of Article

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20(3) of the Constitution of India. As such, the order of summoning, Annexure P/2, be set-aside.

3. While arguing on this point, learned counsel for respondent No.1 contended that vide summons, record of the petitioner-Company has been called so as to enable respondent No.1 to prove that experience certificate issued by respondent no.2 on the letter-head of the petitioner-company was bogus as respondent No.2 had not worked during the period for which the experience certificate was issued and the order is not contrary to the provisions of Article 20(3) of the Constitution of India as no body has been summoned as an accused.

4. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that vide summons, Annexure P/2, the details of TDS deducted from the salary of Ajit Pal Singh from May, 2000 to March, 2007 and the name of Ward of the Income Tax department, wherein the same was deposited by the petitioner-Organization was directed to be produced. The petitioner was also required to produce record of exact dates of two years' period when said Ajit Pal Singh, an ex-employee of the petitioner Company remained outside India during the period from May 2000 to March, 2007 alongwith photocopy of his passport through an authorized representative of the petitioner/Organization.

5. Such a matter was before Hon`ble Larger Bench of Apex Court in **State of Bombay Vs. Kathi Kalu Oghad**, 1961 AIR (SC) 1808 and it has been held by Hon`ble Supreme Court as under:-

“32. It has to be noticed however that Article 20 (3) does not say that an accused person shall not be compelled to be a witness. It says that such a person shall not

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be, compelled to be a witness against himself.”

33.That is why it must be held that by giving these impressions or specimen handwriting, the accused person does not furnish evidence against himself, So when an accused person is compelled to give a specimen handwriting or impressions of his finger, palm or foot, it may be said that he has been compelled to be a witness ; it cannot however be said that he has been compelled to be a witness against himself.”

6. As per view taken by Hon`ble Apex Court, mere production of documents or record is not to be considered as self-incriminating evidence under Article 20(3) of the Constitution of India and production of record etc. does not come within the purview of “to be a witness”.

In view of the above, there is no merit in the present petition and the same stands dismissed.

November 21, 2017
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(SHEKHER DHAWAN)
JUDGE

Speaking/Reasoned
Reportable

Yes
Yes