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

CRM-M-672 of 2010 (O&M)

Date of decision: July 24, 2017

Sohan Lal and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

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

Present: Mr. M.L. Saini, Advocate for the petitioners.

Ms. Samina Dhir, DAG Punjab.

A.B. CHAUDHARI, J (Oral)

Rule. Heard forthwith with the consent of learned counsel for the rival parties.

Petitioners seek quashing of FIR No.21 dated 14.07.2009, under Sections 13(1)(d) of read with Section 13(2) of Prevention of Corruption Act, 1988 (for short 'P.C. Act') and Section 120-B of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Vigilance Bureau, Ludhiana.

Petitioners alleged that they are farmers. According to the learned counsel for the petitioners, who are three in number, they in collusion with Rajinder Singh, Forest Range Officer, Sher Singh, Block Officer and Jitender Singh, Forest Guard encroached upon the forest land and constructed a house and two shops on the land 33 kanals 4 marlas as per demarcation report and thus, by making construction, changed the nature of land after levelling the remaining

land and thus, caused loss amounting to ₹13,18,000/- to the Government. The petitioners admittedly are not public servants and, though, public servants who have been named as above have not been prosecuted. On the contrary, sanction for their prosecution has been declined by the Government or other sanction is not forthcoming for over a period of 8 years by now. In so far as the petitioners are concerned, as stated earlier, they are not public servants and consequently, there is no question of any sanction for prosecuting them.

Learned State counsel submits that the challan is ready and would be filed in due course.

Upon careful reading of the FIR, it is clear that only allegation against the petitioners is that in collusion with the Government officers, they encroached the forest land and constructed a house and two shops and levelled the land. There is no other allegation against the petitioners. In my opinion, offences registered in the FIR in question qua the petitioners are not at all made out. In so far as the petitioners are concerned, looking to the allegations as quoted above, at the most offences under the Forest Act could be said to have been committed. The matter is hanging for the last 8 years. So far as the petitioners are concerned, as stated earlier, prima-facie, no offence is made out against them as registered under said FIR. In that view of the matter, I am satisfied that it is a fit case for quashing the FIR in question against the petitioners. The State has chosen to keep quite so far as the issue of sanction against public servants is concerned. It is

thus, seen that the public servants against whom sanction was sought, is still not forthcoming. Be that as it may, this Court is concerned with the present FIR against the present petitioners. As stated earlier, no offence against the petitioners in the FIR as alleged, could be said to have been made and thus, the FIR in question will have to be quashed. Liberty will have to be granted to the concerned Forest Department to take action according to Forest Act, if at all the same is required including removal of encroachment in the forest, if any.

In the result, the present petition, i.e. CRM-M-672 of 2010 is allowed. FIR No.21 dated 14.07.2009, under Sections 13(1)(d) of read with Section 13(2) of P.C. Act and Section 120-B of IPC, registered at Police Station Vigilance Bureau, Ludhiana, is quashed qua the petitioners. Liberty is reserved in favour of the concerned Forest Department to take such steps as available in law in accordance with law.

(A.B. CHAUDHARI)
JUDGE

July 24, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No