

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

CRM-M-37169 of 2017.
Decided on:-04.10.2017.

Balwan Singh.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Vijay Pal, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 482 Cr.P.C. for quashing the judgment dated 16.05.2017 passed by learned Additional Sessions Judge, Hisar, whereby his revision petition filed against the order dated 18.03.2017 passed by learned Judicial Magistrate 1st Class, Hansi, was dismissed. Vide order dated 18.03.2017, learned Magistrate has framed charge against the petitioner.

Challenge has also been laid to the order dated 11.01.2017 passed by learned Judicial Magistrate 1st Class, Hansi, whereby on an application under Section 319 Cr.P.C. filed by the complainant and forwarded by the A.P.P. for the State, the petitioner was summoned to face trial.

Briefly stated, FIR No.163 dated 30.04.2014 under Sections 409, 420 and 120-B IPC was registered at Police Station Hansi Sadar, District Hisar against the petitioner and other co-accused on the allegation that the

accused in connivance with each other have embezzled an amount of Rs.37,39,968/-.

During the trial, an application under Section 319 Cr.P.C. seeking summoning of the petitioner to face trial was filed. As per the said application, the petitioner is involved in commission of offence and without his complicity, the other accused who were already facing trial, could not commit the offence. The petitioner has committed cheating and forgery in connivance with Clerk Rajesh Kumar and Manager Shamsheer Singh. The inquiry officer Bhoop Singh, who has appeared in the witness box as PW3 has deposed that the petitioner has a clear role in the commission of offence. On the basis of documentary evidence available on record, the trial Court has observed that the petitioner, being sought to be summoned as an additional accused, was posted as Manager in the Ghirai Primary Agriculture Cooperative Society (PACS) Limited, Ghirai w.e.f. 16.09.2011 to 19.03.2013 and the amount of customers has been embezzled with his signatures. Even the inquiry officer has furnished a finding on the basis of documentary evidence showing his complicity and found that it appears to be a prima-facie case against the petitioner.

After summoning of the petitioner in proceedings under Section 319 Cr.P.C., the trial Court has framed charge against the petitioner on the ground that while he remained posted as Manager, PACS, Ghirai w.e.f. 16.09.2011 to 19.03.2013, there are many instances of disbursement of money by fraudulent manner in the name of customers, who have furnished affidavits in support of their allegations. The forged cheques have been signed by the petitioner. Therefore, vide order dated 18.03.2017, the charge was framed

against the petitioner by the trial Court.

The order dated 18.03.2017 passed by the trial Court was subject matter of revision petition filed by the petitioner before the Court of Session. However, the said revision petition was dismissed by learned Additional Sessions Judge, Hisar vide judgment dated 16.05.2017.

Having heard learned counsel for the petitioner and perusing the orders/judgment passed by learned Courts below, this Court finds that there is no illegality in the impugned orders/judgment. The petitioner remained posted as Manager in PACS, Ghirai w.e.f. 16.09.2011 to 19.03.2013. During this period, there are many instances of money in the name of the customers, being fraudulently disbursed. Such customers, who have been defrauded, have furnished their respective affidavits in support of their allegations. One of the allegations against the petitioner is that he has signed the cheques. Therefore, the plea of the petitioner that he is innocent can only be established during the trial.

Accordingly, the impugned orders dated 11.01.2017 and 18.03.2017 passed by learned Judicial Magistrate 1st Class, Hansi as well as the impugned judgment dated 16.05.2017 passed by learned Additional Sessions Judge, Hisar are affirmed and the present petition, being devoid of any merit, is dismissed.

(HARI PAL VERMA)
JUDGE

October 04, 2017

Yag Dutt

Whether speaking/reasoned: Yes

Whether Reportable: No