

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-39351 of 2011 (O&M)

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Date of decision: 5.8.2014

Ramesh Gupta and others

...Petitioners

v.

Central Bureau of Investigation, New Delhi

...Respondent

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. C.S.S. Sisodia, Advocate for the petitioners.

Mr. Sukhdeep Singh Sandhu, Advocate for the respondent-CBI.

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Inderjit Singh, J.

Ramesh Gupta, Arun Kumar Sharma and Amrit Paul-petitioners have filed this petition against C.B.I. (respondent) under Sections 482/483 Cr.P.C. for quashing the charge-sheet dated 22.7.2009 (Annexure-P.7) in consequence to which petitioners No.1 to 3 are facing trial for offences under Section 120-B IPC read with Sections 420, 468 and 471 IPC and Sections 8, 9 and 10 of the Essential Commodities Act, 1955 read with Section 3(v) of the Naphtha (Acquisition, Sale, Storage and Prevention of Use in Automobiles) Order 2000 (hereinafter referred to as 'the Naphtha Order') and Section 3(4) of the Solvent (Acquisition, Sale, Storage and Prevention of Use in Automobiles) Order, 2000 (hereinafter

referred to as 'the Solvent Order') (R.C. No.EOU-1-2003 E0001' registered at Police Station C.B.I./EOU-I New Delhi.

It is mainly stated in the petition that M/s Anmol Solvex Pvt. Ltd., Jhajjar (Haryana) is dealing with manufacture of Formaldehyde and Thinner and the petitioners are Directors of the said firm. The raw-material used for Formaldehyde and Thinner (low grade) water (from tube-well) and other minor chemicals. It is further made clear that "Methanol and water" are used for the production of Formaldehyde. It is stated that a bare perusal of the FIR registered by the C.B.I. no offence is made out against the petitioners. The petitioners have been falsely implicated in the above noted offence by the official of the C.B.I. This case was registered in pursuance of the orders dated 19.10.2001 and 27.12.2001 of Hon'ble High Court of Gujarat in the matter of a Special Civil Application No.3274 of 2001. Accordingly, the case was registered on 27.10.2003 for the offences under Section 120-B read with Sections 420, 467, 468 and 471 IPC, Section 7 read with Section 3 of the Essential Commodities Act, 1955 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and substantive offences thereof against C.K. Jain, M.L. Darad, Arun Kumar Sharma, M/s Adani Exports Ltd. Ahmedabad and other unknown persons.

Notice of motion was issued to the respondent-CBI. The respondent was represented by Mr. Sukhdeep Singh Sandhu, Advocate and contested this quashing petition filed under Section 482/483 Cr.PC.

I have heard learned counsel for the parties and have gone

through the record.

The present petition has been filed under Sections 482/483 Cr.P.C. for quashing the charge-sheet dated 22.7.2009 (Annexure-P.7), copy of the order is also placed on record as Annexure-P.7. As per Annexure-P.7, Arun Kumar Sharma, Amrit Paul, Ramesh Gupta and M/s Anmol Solvex Pvt. Ltd. have been charge-sheeted and Annexure-P.7 is the copy of the charge-sheet. Against the order of framing of charges or charge-sheet, revision petition is maintainable and quashing petition under Section 482 Cr.P.C. cannot lie. The only remedy with the petitioners was to file the revision petition against the charge-sheet and not the petition under Section 482 Cr.P.C. as held by Hon'ble Supreme Court in Mohit alias Sonu and another v. State of U.P. and another, 2013 (3) R.C.R. (Cr.) 673, which is as under:

“The intention of the Legislature enacting the Code of Criminal Procedure and the Code of Civil Procedure vis-a-vis the law laid down by this Court it can safely be concluded that when there is a specific remedy provided by way of appeal or revision the inherent power under Section 482 Criminal Procedure Code or Section 151 C.P.C. cannot and should not be resorted to.”

Therefore, this petition under Section 482 Cr.P.C. against the framing of the charges is not maintainable and the same is dismissed.

August 5, 2014.

(Inderjit Singh)
Judge

hsp