

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

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**CRM-M-46008 of 2016 (O&M)
Date of Decision: May 11, 2017**

Pankaj Ganda @ Pankaj Kumar Ganda

....Petitioner

vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J.

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.279 dated 04.10.2016, under Sections 120-B, 218, 406, 420, 467, 468, 471 of Indian Penal Code and Section 7/13 of P.C. Act, registered at Police Station Kalanwali, District Sirsa, Haryana.

2. It may be briefly noticed that the impugned FIR was registered on the statement of Major Singh S/o Karam Singh and upon a complaint having been given to the Area Magistrate at Dabwali/Sirsa and whereupon the Court directed the registration of the case in exercise of its power under Section 156(3) Cr.P.C. The present petitioner at the relevant point of time was serving on the post of Sub Divisional Officer (SDO), Dakshin Haryana Bijli Vitran Nigam Ltd. The complainant Major Singh asserted that he

was a farmer by profession. He had installed a tubewell in his land at Village Gardani, Tehsil and District Sirsa. He had applied to the Nigam under a Self Financing Scheme for release of a electricity connection of 10 B.H.P. Motor. Allegations are that the present petitioner in the capacity of Sub Divisional Officer and in connivance with other co-accused namely Vinod Kumar Junior Engineer and Balkaran Singh Junior Engineer had received a sum of Rs. One lac as Government dues for release of the electricity connection and for installation of electricity lines, poles and transformer. The petitioner is stated to have handed over copies of certain receipts issued by the Nigam/Department to the complainant and assured that the connection would be released in the name of the complainant. After a lapse of some time, the petitioner collected a further amount of Rs.32,000/- towards installation of poles etc. and assured that receipts in lieu thereof would be issued after electricity connection is released. The electricity connection is stated to have been released but the complainant in spite of repeatedly insisting, receipts for the payment that he had made, were not issued to him. Upon having made enquiries from the electricity department in Kalanwali, District Sirsa, the complainant became aware that there was no record pertaining to the tubewell connection released to him. Rather he was informed that the electricity connection which is running in his fields is invalid and the same would be disconnected. The allegations in a nut shell against the present

petitioner and co-accused are of having misutilized the official position, of having acted in a conspiracy with an intent to cheat and having misappropriated the money collected.

3. Counsel submits that prior to registration of the impugned FIR one more FIR No.79 dated 28.03.2016, under Sections 406, 409, 420, 467, 468, 471, 218, 506, 120B IPC read with Sections 7/13/13(d) of Prevention of Corruption Act 1988 had been registered at Police Station Kalanwali, District Sirsa against the petitioner. Counsel submits that the allegations contained in FIR No.79 dated 28.03.2016, were of similar nature.

4. The sole contention raised by learned counsel is that there can be no second FIR on the receipt of subsequent information in support of the same cognizable offence . It is argued that it is only information about commission of a cognizable offence which is first entered in the station house diary by the officer in charge of the police station that can be recorded as FIR under Section 154 of the Code of Criminal Procedure. All subsequent information would be covered under Section 162 Cr.P.C. On the strength of such solitary submission it is contended that the impugned FIR bearing No.279 dated 04.10.2016 at Police Station Kalanwali, District Sirsa, could not have been registered and the same as such deserves to be quashed. In support of such contention, reliance is placed upon the judgment of the Supreme Court in “***T.T. Antony vs. State of Kerala and others 2001(6) Supreme Court Cases 181***”.

5. No other point has been urged.

6. Having heard counsel for the petitioner at length, this Court is of the considered view that no intervention in the matter is called for. The judgment in T.T. Antony's case (supra) does not support and advance the case set forth on behalf of the petitioner.

7. The dictum laid down in T.T. Antony's case was as per observations contained in Para 19 and 20 of the judgment and which are reproduced here under:-

“19. The scheme of Cr.P.C. is that an officer in charge of a police station has to commence investigation as provided in Section 156 or 157 Cr.P.C. on the basis of entry of the first information report, on coming to know of the commission of a cognizable offence. On completion of investigation and on the basis of the evidence collected, he has to form an opinion under Section 169 or 170 Cr.P.C., as the case may be, and forward his report to the Magistrate concerned under Section 173(2) Cr.P.C. However, even after filing such a report, if he comes into possession of further information or material, he need not register a fresh FIR; he is empowered to make further investigation, normally with the leave of the court, and where during further investigation he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports; this is the import of sub-section (8) of Section 173 Cr.P.C.

20. From the above discussion it follows that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 Cr.P.C. only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 Cr.P.C. Thus can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On the receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 Cr.P.C.”

8. Adverting back to the facts of the present case, even though the allegations contained in the previous FIR i.e. FIR No.79 dated 28.03.2016, registered at Police Station Kalanwali, District Sirsa and on the complaint of one Iqbal Singh S/o Gurdev Singh may be similar to the one which has led to the registration of the impugned FIR yet both these FIRs do not arise out of the same

transaction/occurrence. The complainants in both these cases are different. The transaction/occurrence in relation to demand and acceptance of money by the accused/petitioner was in relation to two separate electricity connections released. Even the accused in these two FIRs are different. In the impugned FIR i.e. FIR No.279 dated 04.10.2016, registered at Police Station Kalanwali, District Sirsa, apart from the present petitioner the other two co-accused are Vinod Kumar and Balkaran Singh Junior Engineers of Dakshin Haryana Bijli Vitran Nigam Ltd. However in FIR No.79 dated 28.03.2016, also registered at Police Station Kalianwlai, District Sirsa and which was prior in point of time the accused apart from the present petitioner, Balkaran Singh and Janta Singh are Junior Engineers and one Raj Singh Contractor.

9. Clearly the statement of the complaint lodged by Major Singh leading to the registration of impugned FIR No.279 dated 04.10.2016, at Police Station Kalanwali, District Sirsa, does not pertain to the same occurrence/transaction which had led to the registration of a previous FIR.

10. The prayer seeking quashing of the impugned FIR on such solitary basis has no merit.

11. The instant petition is accordingly dismissed.

12. It is however clarified that while dismissing the instant petition, this Court has neither dealt with the case on merits nor has any opinion being recorded as regards any other contention/defence that may be available to the petitioner.

Dismissal of the present petition as such would not preclude the petitioner from raising all pleas available to him before the trial Court and at the appropriate stage as may be available strictly in accordance with law.

(TEJINDER SINGH DHINDSA)
JUDGE

11.05.2017
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Whether speaking/reasoned : ***Yes/No***
Whether reportable : ***Yes/No***