

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2933-2014 (O&M)

Date of decision: July 05, 2017.

Smt. Pinki Yadav

... **Petitioner**

v.

Virender Singh Hooda and another

... **Respondents**

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

Present: Shri Ashok Tyagi, Advocate for the petitioner.

Shri Chetan Sharma, Assistant Advocate General, Haryana.

Shri R.N. Lohan, Advocate for respondent No.1.

A.B. Chaudhari, J. (Oral):

Heard learned counsel for the rival parties. Learned counsel for the petitioner sought adjournment to place on record documents. Since the petition is pending since 2014, prayer for adjournment is rejected particularly because the counsel for the contesting respondent has shown me the memorandum of revision. The order issuing process to the respondent No.1 i.e. accused No.2 in the original complaint was set aside by the revisional court principally on the ground that respondent No.2 himself had joined the office of HUDA, Gurgaon only in 2006 whereas the cause of action filed by the complainant by filing the complaint was 2005 by which the transfer/mutation was made. The allegations were that it was respondent No.1 who had colluded and made the said order.

Learned counsel for the petitioner was pointedly asked to show any document that the petitioner was holding the post of Estate Officer, HUDA, Gurgaon at the relevant time, i.e., when the order dated 1.3.2005

was issued. Learned counsel for the petitioner however submits that, that is a matter of evidence and cannot be adjudicated without summoning the accused in the private complaint case. I do not agree. Issuing of process is a serious matter and the satisfaction of the court must be based on material and not on whims and fancies. In the present case, it is seen from para 10 of the revision that there is a categorical statement made by respondent No.1 in the revision filed before the Sessions Court that he had joined for the first time the Estate Office in 2006 but this statement was never rebutted nor there is any averment in the present petition that the said statement is false and contrary to record.

In that view of the matter, the statement and finding recorded by the revisional court accordingly that respondent No.1 had nothing to do with the issuance of order dated 1.3.2005 regarding transfer/mutation cannot be faltered. In my opinion, therefore no fault can be found with the revisional order which quashed the issuance of process against respondent No.1. The petition is thus rejected.

The trial shall continue against the other accused persons and shall be expedited.

July 05, 2017.

kadyan

[A.B. Chaudhari]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No