

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

CRR-1759-2017 (O&M)

Date of Decision:11.05.2017

Anil Kumar

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. K.S. Dhaliwal, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J.

The present petition is directed against the order framing charge and charge sheet dated 07.04.2017 and whereby charges under Section 13(i)(d) of the Prevention of Corruption Act have been framed against the present petitioner by the learned Additional Sessions Judge, Faridabad in FIR No.32, dated 24.12.2014 registered at Police Station SVB, Gurgaon.

Brief facts are that the present petitioner along with others have been implicated on the basis of a complaint lodged by Satyam Arora. Complainant asserted that he along with his brother had a shop situated on main G.T. Road Ballabgarh. The same had been demolished and was being re-constructed along with basement. Allegations are that 3-4 days prior to registration of the FIR in question, the present petitioner, who was serving as Junior Engineer had raised a demand of illegal gratification of Rs.2.50 lakhs to proceed with the construction and the matter had been settled for Rs.75,000/-.

Learned counsel would argue that the petitioner in the capacity of a building Inspector had issued a communication dated 18.12.2014 as regards the unauthorized construction/encroachment being made by the complainant and on the basis thereof, the office of Municipal Corporation, Faridabad, Ballabgarh Zone had issued a show cause notice dated 18.12.2014 (Annexure P-3). It is contended that under such circumstances, there was no occasion for the petitioner to have raised any demand of illegal gratification since the matter had already been brought to the notice of the superior authorities in the Municipal Corporation. Further argued that the alleged recovery of Rs.75,000/- has been shown against the other two accused and no recovery of bribe money has been effected from the present petitioner. Yet another argument raised is that there was no evidence brought forth as regards co-accused Neter Pal driver being on duty with the petitioner. Counsel further argues that charge sheet as also order framing charge suffers from non application of mind.

Having heard counsel for the petitioner at length, I am of the considered view that no basis for interference is made out.

The charge sheet dated 07.04.2017 reads in the following terms:

“That on 24.12.2014 within the area of police station SVB Gurgaon, you all the above named accused were posted as driver, baildar and JE in demolition branch of Municipal Corporation, Ballabgarh i.e. public servant and as such being public servant you accused Neter Pal and Anil Kumar demanded and you accused Gaffar accepted Rs.75,000/- as bribe on behalf of your co-accused which was other than the legal remuneration in respect of an Official Act from complainant Satyan Arora for raising illegal commercial

construction in residential area and thus you all thereby committed an offence punishable under Section 7 of Prevention of Corruption Act and within the cognizance of this court.

Secondly, on same date, time and place you the above named accused namely, Neter Pal being driver and Gaffur being baildar posted in demolition branch of Municipal Corporation, Ballabgarh accepted bribe for yourself and also on behalf of Anil Kumar who was working as JE in demolition branch as public servants by illegal means obtained pecuniary advantage of Rs.75,000/- from complainant for raising illegal commercial construction in residential area and thus you thereby committed an offence punishable under Section 13(1) (d) of Prevention of Corruption Act and within the cognizance of this court.

And I hereby direct that you be tried by this court on the aforesaid charge.

*(Kanchan Mahi)
ASJ, Fbd. 7.4.2017”*

It is by now well settled that at the time of framing charge, the Court is to frame charge on the basis of documents attached with the police report submitted under Section 173 Cr.P.C. and for such exercise, no material/evidence beyond the said documents can be looked into. At the time of framing of charge prima facie case has to be seen. The Apex Court in the case of **Sanghi Brothers (Indore) Private Limited Vs. Sanjay Choudhary and others, 2008(4) RCR (Criminal) 6240** held as under:

“After analyzing the terminology used in the three pairs of sections it was held that despite the differences there is no scope for doubt that at the stage at which the court is required to consider the question of framing of charge, the test of a prima facie case to be applied.

The present case is not one where the High Court ought to have interfered with the order of framing the charge. As

rightly submitted by learned counsel for the appellant, even if there is a strong suspicion about the commission of offence and the involvement of the accused, it is sufficient for the court to frame a charge. At that stage, there is no necessity of formulating the opinion about the prospect of conviction. That being so, the impugned order of the High Court cannot be sustained and is set aside. The appeal is allowed.”

Adverting back to the facts of the present case and on a conjoint reading of the charge sheet as also order framing charge, it is apparent that there has been a due application of mind. The present petitioner was posted and serving as Junior Engineer in the demolishing branch of Municipal Corporation, Ballabgarh. Prosecution version is that the co-accused serving a Driver and Beldar accepted Rs.75,000/- as bribe on behalf of the petitioner.

It has been specifically noticed in the impugned order that the contents of the documents annexed thereto have been gone through and a prima case under Sections 7 and 13(i)(d) of the Prevention of Corruption Act has been made out.

Learned counsel has not been able to point out any patent infirmity or illegality in the impugned order.

The revision petition is, accordingly, dismissed.

11.05.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |