

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 6789 OF 2009**

Raghunandan Singh S/o late Kamla Singh, aged about 45 years, occupation Head Constable 206-PS Manendragarh, Distt. Korea, (CG) R/o Ward No.1, Mani Maholla, Manendragarh, Distt. Korea (CG).

...Petitioner(s)

Versus

1. State of Chhattisgarh through Home Department, Mantralaya, DKS Bhawan, Raipur (CG).
2. The Director General Of Police Police Headquarter, Raipur (CG).
3. The Inspector General Of Police Surguja Range, Ambikapur, Distt.-Surguja (CG).
4. The Superintendent Of Police Baikunthpur, Distt.-Korea (CG).
5. The S.D.O.P. Police Station Manendragarh, Distt.-Korea (CG).
6. Ramashanker Gupta S/o Late Hajarilal Gupta, R/o Railway Station Road, Manendragarh, Distt.-Korea (CG).

... Respondent(s)

For Petitioner	:	Shri Shakti Raj Sinha, Advocate.
For Respondent-State	:	Shri Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board**

23.07.2018

1. The challenge in this petition is to the initiation of Departmental Enquiry (in short, DE) against the petitioner vide charge sheet dated 22.07.2009.
2. The brief facts of the case is that, an accident took place on 29.12.2006 at village Katathoiya about 10 km away from the police Station Manendragarh. The accident was head on collision of two motorcycle. One was driven by Amit Majumdar and the other was driven by Ramashankar Gupta. The police authorities lodged two separate FIR at the instance of both the motorcyclist. One was registered as crime No.2/2007 and the other was registered as Crime No.13/2007. In Crime No.2/2007, the charge sheet was

immediately filed on 13.07.2007 whereas, in Crime No.13/2007 charge sheet was filed after more than two years i.e. on 20.04.2009. It is stated that in Crime No.13/2007 the charge sheet could not be filed on account of accused person therein absconding. Meanwhile, one of the motorcyclist i.e. case in which Ramashankar Gupta was accused i.e. Crime No.13/2007, he filed a compliant before the police authorities on the basis of which the instant charge sheet dated 22.07.2009 and DE has been initiated against the petitioner.

3. The petitioner in the instant case had an interim order in his favour vide order dated 19.11.2009 and by virtue of said interim protection, the respondents authority have not proceeded any further with the charge sheet and DE.
4. In between, pending the petition before this court, there were certain developments that has taken place and both the motorcyclist have filed two separate claim applications under the provisions of the Motor Vehicles Act, 1988. Both claim cases stood allowed and compensation were awarded to either of the persons. Likewise, in two criminal cases which was lodged as crime No.2/2017 in which Amit Majumdar was accused, he has been convicted with fine of Rs.1000/- and in Crime No.13/2017, in which Ramashankar Gupta was accused, he was acquitted granting benefit of doubt.
5. What is primarily to be seen is that while accepting the charge sheet before the prosecution agency, the concerned ADOP has not found any irregularity or lapse on the part of the investigating agency in conducting of the investigation. Neither is there any opinion from any competent authority in this regard except for the written complaint

which was lodged by Ramashankar Gupta which seems to be basis for the initiation of the DE. There does not appear to be any concrete material collected by the authorities concerned before issuance of charge sheet or proceeding further with the DE. The case of the petitioner further gets strengthened from the fact that even though the two criminal cases now stand decided vide order dated 24.07.2013 and 19.07.2016, there is no observation by any of the officers conducting trial to the extent of holding that the prosecution has committed an error in the course of investigation, nor is there any blame upon the enquiry officer of any improper investigation.

6. Given these subsequent development, the issue would be as to what would be the relevancy of the charge sheet and DE which has been initiated against the petitioner in the year, 2009 and which was stayed by this court and the stay continues till date.
7. The only defence which the State has taken is the contents of the charge sheet i.e. dereliction of duty and that the investigating officer i.e. the petitioner is said to have overlooked the aspect that on the basis of the same set of witnesses making contradictory statement have been taken into account while registering the two FIRs and in registering the two cases.
8. However, what cannot not be lost sight of, is the fact that the charge sheet in the two cases have been filed with a considerable gap of time in as much as in one case charge sheet was filed on 13.03.2007 and in the other case on 20.04.2009. There is all possibility that the statement of witnesses must have been examined on different dates. Merely because there is contradiction in the

statement of the witnesses by itself may not amount to dereliction of duty as there is no allegation against the petitioner in the charge sheet of having ignored certain material witnesses which have been examined, nor is it a case where the petitioner has deliberately delayed filing of the charge sheet in either of the case.

9. Given the said facts and circumstances of the case and also taking note of petty nature of allegation against the petitioner, moreover, there being disposal of the two criminal cases before the trial court with no observation of any lapse on the part of the prosecution in the investigation process, this court is of the opinion that no fruitful purpose would be served in proceeding further with the charge sheet dated 22.07.2009 and DE under challenge in the present writ petition.
10. Accordingly, the petition deserves to be and is allowed. The charge sheet dated 22.07.2009 stands quashed so also the departmental proceeding initiated thereon. Consequence to follow.

Sd/-
(P. Sam Koshy)
Judge