

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-11363 of 2016

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Date of decision:14.9.2018

Dev Raj

.....Petitioner

v.

State of Punjab

.....Respondent

....

Present: Mr. R.S. Manhas, Advocate for the petitioner.

Ms. Monika Jalota, Deputy Advocate General, Punjab for the
respondent-State.

.....

Inderjit Singh, J.

Dev Raj-petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.13 dated 16.05.2005 (Annexure-P.1) registered for the offences under Sections 420, 176 and 120-B IPC and Section 13(1) read with Section 13(2) of Prevention of Corruption Act, 1988 at Police Station Vigilance Bureau, Phase-1, S.A.S. Nagar (Mohali) and for quashing order dated 15.02.2016 (Annexure-P.11) vide which the charges have been framed against the petitioner and he has been ordered to face the trial and subsequent proceedings thereto qua the petitioner.

Notice of motion has been issued in this case.

Ms. Monika Jalota, learned Deputy Advocate General, Punjab has appeared on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner as well as

learned State counsel and have gone through the record.

It has been stated in the petition by the present petitioner that the Vigilance Bureau registered the FIR on the basis of information from reliable sources against Balbir Chand A.R.C., Ranjit Sagar Dam, Shahpur Kandi, Pathankot, Shiv Rattan, B.D.P.O. Sujampur, District Gurdaspur and Kuldeep Raj, Ex-Sarpanch, Village Phangota, District Gurdaspur and others. On the basis of information and registration of FIR, the Vigilance Bureau called the father of the petitioner, who is the proprietor of Village Phangota *Teeka Shamlat*. The father of the petitioner is an old man of 85 years and the petitioner appeared before the Vigilance Bureau along with his father Shri Anant Ram, who was also arrayed as an accused in the year 2014 and the Vigilance Bureau also made the petitioner an accused without any basis. The petitioner is neither proprietor nor beneficiary nor official of any authorities concerned. But still the respondent-State has presented challan against him also. The allegation against the petitioner is that he had applied for list of proprietors before the Patwari and the Patwari has issued the list of proprietors. As per the allegations in the FIR, the above named officials have been named in the FIR as they were concerned with the Revenue Department and Sarpanch and Secretary of the Panchayat. As per the prosecution version, total 12237 Kanals 10 Marlas area of *Teeka Shamlat* (Phangota and its *Teekas*) is shown to have been acquired for the construction of reservoir of Ranjit Sagar Dam out of which 9000 Kanals of land was not available at the spot. Thus, payment of total ₹3,57,14,838/- (₹3,37,81,896/- plus ₹19,62,942)- was illegally obtained by the villagers by

keeping the Court in dark and payment of ₹1,24,10,979/- was also wrongly paid to the proprietors when Gram Panchayat, Phangota was owner of land. The In-come Tax Department was also paid ₹19,62,942/- illegally. Further the allegation was that even the compensation received by the beneficiaries including the father of the petitioner of 3327 Kanals 10 Marlas has been wrongly given because as per record of the Revenue Department, the Gram Panchayat Phangota was entitled to receive the compensation. Co-accused Kuldeep Raj, Sarpanch did not properly pursue the case. Co-accused of the petitioner-Dev Raj, i.e. Shiv Rattan Kumar and some other officials of Panchayat Department did not take interest to protect the government interests in the Court. It is stated that neither in the original challan nor in supplementary challan, the petitioner has been attributed any overt act. The land in question was acquired on 30.09.1987 and possession of the acquired land was again taken on 06.06.1989. He has also stated that under the Land Acquisition Act, it was duty of the office of Land Acquisition Collector or the authorities of the Ranjit Sagar Dam to make survey and measurements of the land at the time of issuing notifications of acquisition.

The learned trial Court found that prima facie case is made out from the perusal of the challan under Section 173 Cr.P.C., the documents appended therewith and the statements recorded under Section 161 Cr.P.C. that accused persons agreed to do an illegal act to prepare false revenue record in order to pronounce Award No.76 dated 29.3.1988 by Babu Ram, Land Acquisition Officer for the land acquired for construction of Ranjit Sagar Dam at Shahpur Kandi on the acquired land and to illegally take away

sum of ₹3,57,44,838/- including ₹19,62,942/- paid to the Income Tax Department dishonestly represented to deliver to all the accused except Babu Ram and Balbir Chand different amounts, projecting themselves to be the owners of the acquired land to the extent of 9000 Kanals, which was never existing at the spot. The co-accused Babu Ram, Balbir Chand and Shiv Rattan Kumar along with other officials by corrupt and illegal means obtained for their co-accused pecuniary advantage to the tune of huge amount.

From the record, I find that in the present case challan has already been presented and charges have also been framed and the trial Court has already taken the cognizance.

Learned counsel for the petitioner at the time of arguments argued that the petitioner is neither the beneficiary nor a government servant. Therefore, the allegation only is that he was pursuing the case. Learned counsel for the petitioner further argued that the father of the petitioner was the beneficiary and even if he was pursuing the case of his father, he has not committed any offence.

On the other hand, learned State counsel argued that the allegation in the FIR is that compensation more than ₹3.5 Crores has been obtained in the LAC proceedings as 9000 Kanals of land was not existing at the spot. The allegation against the present petitioner is mainly of criminal conspiracy under Section 120-B IPC as he was pursuing the cases of all the persons and had obtained the Jamabandis regarding the land etc. from the Patwari knowing fully well that 9000 Kanals of land was not existing on the

spot and other land was owned by Gram Panchayat. In para 2 of the reply, it has been stated that during the further investigation, it was revealed that the present petitioner was pursuing the entire matter on behalf of the proprietors of the villages and it was the present petitioner who had got issued Jamabandis of his co-accused under his own signatures from the Patwari. It was further found that when the amount of compensation was received, then the same was divided amongst the petitioner and his co-accused. The main allegation against the present petitioner is under Section 120-B IPC and the statement of Patwari is also on the record along with the documents.

Therefore, from the above, I find that no ground is made out for quashing of the FIR along with charge-sheet and subsequent proceedings. Nothing has been shown as to how the registration of FIR amounts to abuse of the process of law and miscarriage of justice. The challan has already been presented and the charges have been framed. It is well settled that at the time of framing of charge, the Court is only to see a *prima facie* case. At this stage, the Court is not to weigh the evidence and even strong suspicion is sufficient to frame charge. The criminal conspiracy can also be inferred from the circumstances and the evidence produced before the Court. In no way, it can be held that no case is made out against the present petitioner nor it can be held that the registration of the FIR amounts to abuse of process of law and miscarriage of justice.

Therefore, finding no merit in this petition, the same is dismissed.

However, nothing stated above will constitute my opinion on

the merits of the case.

September 14, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No