IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc. No. M-22312 of 2018 (O&M)
Date of decision: 09.07.2018

Ravinder Singh Rana **..Petitioner**

Versus

Central Bureau of Investigation **..Respondent**

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. P.S. Khurana, Advocate
for the petitioner.

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Daya Chaudhary, J. (Oral)

Petitioner-Ravinder Singh Rana has approached this Court by way of filing the present petition under Section 482 Cr.P.C. for quashing of impugned order dated 15.02.2018 passed by the Special Judge, CBI, Punjab, SAS Nagar (Mohali) (Annexure P-1) in RC No.219 2014 E 0001 of 2014 dated 03.01.2014 under Sections 120-B, 419, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, registered at Police Station CBI, EO-I/DLI, New Delhi (Annexure P-2), whereby, the application for discharge of the petitioner has been dismissed.

Briefly, the facts of the case as made out in the present petition are that Suman Narula and Kajal Narula were having a partnership firm under the name and style of 'M/s SN Exports'. Said firm was dealing with manufacturing of readymade garments at Ludhiana. The firm was having credit facility of ₹4.06 Crores from SBI Specialized Commercial Bank, Civil Lines, Ludhiana. A request for enhancement of credit facilities was submitted, which was initially processed by Canara Bank Overseas Branch, Kalsi Nagar, Ludhiana in the month of March 2008. The firm submitted a list of two properties as collateral security at the time of sanctioning and enhancing the credit facility. Out of which one was plot No.17, opposite DIG Police Complex, Jamalpur, Ludhiana worth ₹325.08 lakhs and the other was Plot No.1094-D, Model Town Extension, Ludhiana worth ₹82.00 lakhs. A case bearing No.RC0962012A0006 titled as CBI vs. D.S.S. Ravindra and others was registered by the CBI. The allegations in the case were investigated and a report under Section 173 Cr.P.C. was submitted before the Court of Special Judge, CBI, Shimla on 22.08.2014. The allegations against the petitioner were that he identified Basant Kaur on affidavit dated 13.06.2008 as it was found in the investigation that one Surinder Kaur had impersonated Basant Kaur. The petitioner along with other accused is facing trial before Special Judge, CBI, Shimla since 2014 and more than 50 witnesses have been examined so far. One other case bearing RC No.219 2014 E 0001 of 2014 dated 03.01.2014 under Sections 120-B, 419, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, was registered by the CBI, wherein, final report was submitted before Special Judge, CBI, Patiala, Punjab. The trial of this case is in progress after filing charge sheet.

This petition has been filed for quashing of FIR on the ground that the petitioner has falsely been implicated in the case on the basis of identification of Basant Kaur made by him on affidavit dated 13.06.2008. Said affidavit has been relied upon by the Investigating Agency. The petitioner moved an application for discharge before the trial Court in case RC No.219 2014 E 0001 of 2014 dated 03.01.2014 by raising various grounds. Said application was dismissed vide order dated 15.02.2018, which is subject matter of challenge in the present petition.

Learned counsel for the petitioner submits that contents of the application have not been taken into consideration by the trial Court and without any application of mind, the same has been dismissed. The petitioner cannot be prosecuted for the alleged single act i.e., identification of Basant Kaur on affidavit dated 13.06.2008 in case that affidavit has been used without consent and information of the petitioner. Learned counsel further submits that continuation of proceedings would be misuse of process of law and also violative of constitutional guarantees as provided to the petitioner under Article 20 of the Constitution of India. Learned counsel also submits that the petitioner has signed and Basant Kaur has put her signatures before him on the said affidavit but he never introduced said Basant Kaur to the Bank Authorities for mortgaging the property for the purpose of taking loan. Learned counsel also submits that as per version of the Investigating Agency, said Basant Kaur has been introduced in the Bank by the borrower Suman Narula much before the execution of said affidavit. It is also the argument of learned counsel for the petitioner that the petitioner cannot be punished twice, which amounts to double jeopardy in view of provisions of Section 300 Cr.P.C. At the end, learned counsel for the petitioner submits that the petitioner has been nominated as an accused whereas no offence is made out against him. Learned counsel for the petitioner has also relied upon judgment rendered by Hon'ble the Apex

Court in ***State of Jharkhand through SP, CBI vs. Lalu Prasad @ Lalu Prasad Yadav, 2017 (2) RCR (Criminal) 901*** as well as judgment rendered by the Bombay High Court in ***G.G.A. Naidy vs. State of Maharashtra and others, 2003(1) Bom. C.R. (Cri.) 217*** in support of his arguments.

Heard arguments of learned counsel for the petitioner and have also perused the contents of both the cases and other documents available on the file.

Admittedly, the case was registered against accused-Suman Narula, Kajal Narula and Basant Kaur. It was found in the investigation that the petitioner identified accused-Surinder Kaur as Basant Kaur before the Notary Public. Said Surinder Kaur impersonated herself as Basant Kaur and submitted her affidavit along with sale deed to accused-Prem Sundar Singh, the then Manager, Canara Bank. The allegations levelled against the petitioner are that he helped in commission of offence by identifying Surinder Kaur as Basant Kaur, who further got created equitable mortgage of the property before the Bank on 18.06.2008. The allegations levelled against the petitioner are that he introduced a lady, who was not Basant Kaur. The only ground mentioned in the application of discharge is that it would be a case of double jeopardy as two identical cases are there. On perusal of contents of allegations in both the cases, it shows that both the cases are totally different. The allegations levelled against the petitioner are matter of evidence, which can be looked into by the trial Court.

The application for discharge has been dismissed by the trial Court by giving a specific finding. The judgments relied upon by learned counsel for the petitioner are not relevant keeping in view the facts and circumstances of the case.

No doubt as per settled proposition of law, no person should be prosecuted and punished for the same offence more than once. It is called as doctrine of double jeopardy. The only purpose is to avoid harassment, which may be caused by successive criminal proceedings in case the person has committed the same offence earlier.

There are two aspects of doctrine of jeopardy i.e., Autrefois convict and Autrefois acquit. Autrefois convict means that the person has been previously convicted in respect of same offence and Autrefois acquit means that the person has been acquitted of the same charge on which, he is going to be prosecuted.

In the present case, both the cases are different and moreover, the petitioner has not been convicted in one case and thereafter, he is being prosecuted. The allegations levelled against the petitioner are matter of evidence, which shall be seen by the trial Court. No finding can be given as it can be decided after seeing the evidence produced before the trial Court.

Accordingly, the present petition being devoid of any merit is, hereby, dismissed.

09.07.2018 **(DAYA CHAUDHARY)**
neetu **JUDGE**

Whether speaking/reasoned Yes

Whether Reportable Yes