

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

CRM No.M-25820 of 2013 (O&M)

Date of Decision: August 03, 2018

Baldev Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.J.S.Bedi, Senior Advocate with
Mr.Sonepreet Brar, Advocate
for the petitioner.

Mr.Pawan Sharda, Sr. DAG, Punjab
for the respondent-State.

INDERJIT SINGH, J.

CRM No.4132 of 2016

The application is allowed, subject to all just exceptions.

Annexure P-15 is taken on record.

CRM No.M-25820 of 2013

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.50 dated 11.08.2006 under Section 13(1)(c)(d) read with Section 13(2) of the Prevention of Corruption Act and Sections 409, 467, 468 and 471 IPC, registered at Police Station Vigilance, Patiala Range, Patiala, summoning order dated 26.03.2013 and all subsequent proceedings

arising therefrom.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

At the time of arguments, learned counsel for the petitioner argued that after the registration of the FIR, investigation was conducted and cancellation report was filed first time on 13.08.2008 before the Court, to which, the Court did not agree. Again, after investigation, second time the cancellation report was filed on 23.02.2010 and then, for third time, the cancellation report was submitted by the police on 04.09.2012. After that, the Court has taken cognizance and accused-petitioner has been summoned vide order dated 26.03.2013 (Annexure P-8). Learned counsel for the petitioner argued that petitioner was only a member of the tournament committee. There are so many other members of the tournament committee. He next contended that there is no dispute that tournament was not held nor there is any case that articles in question were not brought to the venue of the tournament regarding which rent has been paid. The only dispute is that bill is on the old letter pad of Gurunanank Tent Service showing the address as Lok Sevak Market, Bassi Road, Sirhind, whereas this tent house is still there but operating from village Bhamrasi Jer, by wife of present petitioner namely Mohinder Kaur.

On the other hand, learned State counsel contested this petition and argued that bills have been forged and amount of more than ₹73,000/- has been embezzled.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

The perusal of summoning order shows that no sanction under

Section 19 of the Prevention of Corruption Act has been obtained nor applied and cancellation report has been filed three times before the Court. Therefore, accused cannot be summoned under Section 13 of the Prevention of Corruption Act. The Court further held that present petitioner was working as AEO being public servant and sanction under Section 197 Cr.P.C. is not required in view of the serious allegations under Sections 409, 467, 468 and 471 IPC.

The perusal of the record shows that tournament was admittedly held and earlier also, tournament was held . So many bills were placed on record showing that articles were being brought/summoned from the same tent service since 2004 and the amount was being paid. Learned counsel for the petitioner argued that the tournament was organized by a committee and articles were brought on rent etc. from the tent house and the bill has been passed after due sanction by the District Education Officer, after proper verification.

Statement of Mohinder Kaur, owner of Gurunanak Tent Service was also recorded, wherein, she stated that she has been running the shop in the name and style of Gurunanak Tent Service since 1987. Earlier, she was operating from Bassi Road, Sirhind but now, she has started her shop at Bhamrasi Jer. She also stated that the District Tournament Committee has been taking the material of tent from her shop for organizing tournaments and other functions for the last six years as the rates of her shop are lower and she had been getting payments of the work after the tournaments.

The perusal of the record shows tent house is still running and income tax returns, even before the present occurrence, were filed by Gurunanak Tent Service. Even, latest income tax return was shown at the

time of arguments, for the financial year 2017-18 filed by Mohinder Kaur. It looks that bill has been prepared on the old letter pad showing the shop at Sirhind, which was earlier there. It is not the case of anybody that articles in question were not brought at the time of tournament nor it is disputed fact that tournament was not organized by committee constituting so many members. It is also not the case of the prosecution that these articles were not brought there for organizing the tournament. The tent house is at Bhamrasi Jer and it is still running as per the income tax returns filed by Gurunanak Tent Service. There is no complaint from any member of the Tournament Committee that the tournament was not held or any embezzlement was done or the articles were not used or not brought at the time of tournament.

Keeping in view the statement of Mohinder Kaur recorded under Section 161 Cr.P.C., owner of the tent house, who is wife of present petitioner and in view of other documents on record, I find that, in the facts and circumstances, even sanction under Section 197 Cr.P.C. is required as allegations have been levelled regarding the acts which have been performed while discharging the official duties.

In view of the above discussion, I find that three times cancellation report has been filed and there was no ground for summoning the petitioner. The registration of the FIR against the present petitioner is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. FIR No.50 dated 11.08.2006 under Section 13(1)(c)(d) read with Section 13(2) of the Prevention of Corruption Act and Sections 409, 467,

Patiala, summoning order dated 26.03.2013 all all subsequent proceedings
arising therefrom, are hereby quashed.

August 03, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No