

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

(i) CRM No.M-24185 of 2017 (O&M)

Satish Setia and others

...Petitioners

VERSUS

The State of Haryana and another

...Respondents

(ii) CRM No.M-29485 of 2017 (O&M)

Vinod Saini

...Petitioner

VERSUS

State of Haryana and another

...Respondents

Date of Decision: September 27, 2018

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Gautam Dutt, Advocate
for the petitioners (in CRM No.M-24185 of 2017).

Ms.Mannat Anand, Advocate
for the petitioner (in CRM No.M-29485 of 2017).

Mr.B.S.Virk, DAG, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Both the above-mentioned cases are taken up together as these
have arisen from same FIR.

Petitioners have filed these petitions under Section 482 Cr.P.C.
for quashing of FIR No.118 dated 18.03.2016 under Sections 409, 420, 120-
B IPC read with Section 13(1) (c) of the Prevention of Corruption Act,
registered at Police Station Pehowa, District Kurukshetra and subsequent

proceedings including challan.

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

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

From the record, I find that FIR in the present case has been registered on the application of District Food and Suppliers Controller. The contents of the FIR are as under:-

“The Executive Engineer Submitted report to this office vide letter No.5878 dated 17.11.2015. In the physical verification report 18832 bags, 9441.00 quintals of wheat stock were found deficient. Photocopy of the report has been attached herewith. The government ordered the officers conducting physical verification to conduct physical verification at each others' centres under whereby physical verification at Pehowa Centre was conducted by Sh.J.K.Kamboj, Executive Engineer, PWD Division I, Kurukshetra vide Deputy Commissioner, Kurukshetra letter No.30487-90/MA-3, dated 18.11.2015, report of which was received in this office on 20.11.2015 which also showed a shortage of 18832 bags, 9441.00 quintals wheat. Besides the above, report of the physical verification dated 16.09.2015 was sent to Director General, Food and Supply Department, Haryana, Chandigarh vide Accountant-2-2015/4018 dated 12.10.2015. With reference to this the Head Office constituted a committee of four officers of the Head Office vide order No.3-SB-1-2015/31797 dated 10.11.2015. The above committee conducted a detailed physical verification of wheat stock/stock articles at Pehowa Centre. As per the report submitted by the Committee, a total of 64896 bags, 32448.00 quintals should have been stored, 64196 bags, 32098.00 quintals and 700 bags, 350.00 quintals for the year 2013-14 and 2014-15 respectively as per PR-9. Against this, 47772 bags, 23886 quintals were reported to have been found on physical verification. This way, a shortage of 17124 bags, 8562 quintals wheat was found out of which 700 bags, 350.00 quintals shortage pertains to the year 2013-14 and the remaining shortage of 16424 bags, 8062.00 quintals pertains to the year 2014-15. Besides this, the Committee directed that against 700 bags, 350.00 quintals for the year 2013-14 at Chahal Open Plinth, Gula Cheeka road, Pehowa a shortage of 2742 bags, 1371.00 quintals for the year 2014-15 was found. The concerned Inspector was asked to be directed to take the same or record immediately. This way, the shortage of 17124 bags, 8562 quintals wheat amounts to Rs.1,84,66,086/-. The

total amount of shortage of stock articles comes out to be Rs.1,69,65,202/-. As such, an amount of Rs.3,54,31,288/- has been embezzled. After considering the matter, the decision has been taken at the Government level. The concerned Inspectors, Sub Inspectors (second set), A.M.S.O. and all the members of the PV team which conducted the physical verification for the period ending in the month of June 2015 are directly responsible for the embezzlement of wheat/stock articles. Therefore, criminal case be registered against all of them. Besides this, it has also been decided that if role of any officer at the supervisory level is found suspicious, he should also be included in the investigation in this matter.”

From the record, I find that in the present case challan has already been presented but charges have not been framed yet. The perusal of the FIR itself shows that allegation of conspiracy has been alleged against the petitioners. They have conducted the physical verification and have given false report. Learned counsel for the petitioners argued that there is no allegation regarding embezzlement against them. He also argued that small amount of ₹1,200/- from Satish Setia, ₹600/- each from Dharam Pal and Ishwar Singh has been recovered, which cannot be connected with the crime.

Earlier, stock was found less of 11070 bags and again on physical verification, 18032 bags were found less. The physical verification is made within a short span. There is no explanation, at this stage, why they have given false report regarding physical verification.

In the reply, filed by the State, it is stated that earlier a team was constituted to verify the stock and the committee, after physical verification found that out of total 64832 bags having 32416 quintals of wheat, 11070 bags were found short. In respect of this shortage, verification of stock and articles was done by the government. The physical

verification, Executive Engineer submitted report on 17.11.2015 and as per the report, 18832 bags were found deficient. It is further stated in the reply that above-said committee also conducted detailed physical verification of wheat stock/stock articles at Pehowa Centre. As per report, total 64896 bags were stored but during physical verification, 47772 bags were found in the store and in this way, 17124 bags were found short and the total loss caused was ₹3,54,31,288/-. After considering all this, the government decided to register the FIR against Inspectors, Sub Inspectors, AMSOs and all members of physical verification team by holding them directly responsible for embezzlement of wheat and stock articles. There is also allegation that Vinod Saini was also responsible for the concealment of embezzlement of wheat stock and shortage of stock articles.

At this stage, it cannot be held that it is a case of no evidence. Connivance and allegations of concealment and conspiracy are there, which are to be proved by the prosecution by producing evidence. The defence version of the accused is also to be proved by the petitioners while producing defence evidence. At this stage, in no way, it can be held that registration of the FIR is abuse of process of law or amounts to miscarriage of justice.

Therefore, finding no merit in both the petitions, the same are dismissed.

However, nothing stated above, shall constitute my opinion on merits of the case.

September 27, 2018
Vgulati

(INDERJIT SINGH)
JUDGE