

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

**CRM No.M-29902 of 2016 (O&M)
Date of Decision: July 31, 2018**

Bhagwan Dass Bansal

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vijay Kumar Jindal, Senior Advocate with
Mr.Ajay Gupta and Ms.Janya Sirohi, Advocates
for the petitioner.

Mr.Vikas Chopra, DAG, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.365 dated 05.12.2015 bearing registration No.7/2016 dated 30.07.2016 titled 'State of Haryana vs. Bhagwan Dass Bansal' under Section 9 of the Prevention of Corruption Act, registered at Police Station Civil Lines, Bhiwani along with 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 contended that present FIR is nothing but abuse of process of law and amounts to miscarriage of justice. He argued that FIR has been registered

on the basis of secret information received by the police by stating that present petitioner, who was Chairman of Haryana Pradesh Udyog Vyapar Mandal, has obtained a heavy amount as bribe from Manjit to get him issued NOC of magazine from the higher officials of the office of Director General of Police, Panchkula. Learned counsel for the petitioner argued that said Manjit has not made any statement to the police nor he gave any complaint to the police and only on the basis of secret information, the present FIR was registered on 05.12.2015. He next argued that before registration of the FIR, no enquiry was conducted and directly, on the basis of secret information, FIR was registered. Even, the Investigating Officer has not found it proper to contact Manjit before registration of the FIR. Present petitioner was arrested on 22.06.2016 i.e. after more than six months. Statement of complainant in this case has been recorded after 5 months 15 days of registration of the FIR. Learned counsel for the petitioner further contended that FIR was registered against the present petitioner as the petitioner has filed complaints against Superintendent of Police and for approaching this Court for redressal of his grievance. He relied upon Annexure P-3, which was the representation given to Chief Minister, Haryana. Learned counsel for the petitioner argued that even the order passed by this Court was not complied with and the petitioner had to approach Addl. Chief Secretary and Addl. Chief Secretary passed the order to the police authority to comply with the order. Therefore, feeling aggrieved from these proceedings initiated by the petitioner and to take revenge, present false FIR was registered.

On the other hand, learned State counsel argued that in this

case, charge has already been framed, therefore, cognizance has been taken

and no ground is made out for quashing the FIR.

After hearing learned counsel for the petitioner as well as learned State counsel and after going through the record, I find that FIR was registered against the present petitioner on the allegation, as argued above, on 05.12.2015. Manjit, victim has not contacted the police nor the police contacted him before registration of the FIR. The FIR was registered on the basis of secret information. Even, the Investigating Officer did not bother to contact victim Manjit and his statement was recorded under Section 161 Cr.P.C. after 5 months 15 days. No enquiry was conducted before registration of the FIR, especially, when victim was not approaching the Investigating Officer and the FIR was registered on secret information. Therefore, it was necessary for the Investigating Officer to first make preliminary enquiry regarding the allegations. The petitioner was arrested on 22.06.2016 after more than six months of the registration of the FIR. The present petitioner filed the representation to the Chief Minister, Haryana (Annexure P-3) where it is requested for ordering investigation through SIT headed by not below the rank of Inspector General of Police in cases FIR No.51 dated 03.04.2014, FIR No.57 dated 13.04.2014 registered at Police Station Hassanpur, Tehsil and District Palwal, FIR No.104 dated 06.07.2013, FIR No.24 dated 01.03.2013, FIR No.50 dated 02.05.2013 and FIR No.36 dated 22.03.2012 and also for disciplinary action against the delinquent police and revenue officers, who failed in discharging of their duties in not taking timely appropriate actions and not lodging FIR and also failed to reach the spot at the time of harvesting of crops and illegally, forcibly cutting and stealing the crops by the culprits, in view of the order passed in criminal misc. 10417 dated 07.04.2010 as ordered by this Court.

This representation was given by present petitioner to Chief Minister, Haryana on 29.08.2015, which clearly shows that this representation was given to take action against the police officials, much before the registration of the FIR. In this representation, it is held that vide order dated 07.04.2010 passed by this Court in CRM No.10417, DGP, Haryana was directed to make adequate arrangement for security of life, liberty and property and for making due arrangements for such security within 10 days. In this representation, it is also mentioned that in April 2014, the applicant (petitioner) submitted a written request to worthy Chief Secretary, Haryana, for providing adequate police force for harvesting his ripened wheat crop, who ordered vide his letter No.29332 dated 01.04.2014 endorsed to CS to Additional Chief Secretary, Home Department to make adequate arrangements for such security. On the basis of that order, Addl. Chief Secretary, Haryana, Home Department, ordered to Director General of Police and Senior Superintendent of Police, Palwal, to comply with the orders and directed to make immediate arrangements of adequate security and police help vide memo dated 01.04.2014 but the applicant was not provided security. It is further mentioned in the representation that on 19.04.2014, present petitioner met Chief Minister, Haryana and submitted a written complaint to him, who order SP, Palwal, to take appropriate necessary action but no action was taken by SP, Palwal. The documents to support all these averments, have been placed on record and genuineness of the documents has not been contested by learned State counsel.

All these allegations, which are duly supported by the documents and the fact that present petitioner was approaching at the highest level i.e. Chief Minister etc. and asking for action against police

officials and also asking for the security, as per order of this Court, show that in the facts and circumstances, the registration of the FIR against the present petitioner, without any complaint of any victim or recording statement of victim or without conducting any enquiry and further recording of statement of victim after 5 months 15 days, 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.365 dated 05.12.2015 bearing registration No.7/2016 dated 30.07.2016 titled 'State of Haryana vs. Bhagwan Dass Bansal' under Section 9 of the Prevention of Corruption Act, registered at Police Station Civil Lines, Bhiwani along with all subsequent proceedings arising therefrom, are hereby quashed.

July 31, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No