

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

**CRM No.M-32452 of 2016 (O&M)
Date of Decision: December 03, 2018**

Shashi (Shish) Pal Mehta

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.S.Rai, Senior Advocate with
Mr.Gautam Dutt, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana
for the respondent-State.

Mr.Karan Singh, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondents State of Haryana and Rohit Kumar for quashing the FIR No.5 dated 03.07.2012 under Sections 7, 8, 13 of the Prevention of Corruption Act and Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station State Vigilance Bureau, Panchkula as well as order dated 05.03.2016 passed by learned Addl. Sessions Judge/Special Judge, Yamuna Nagar at Jagadhri along with all consequential proceedings arising therefrom.

Notice of motion was issued. Learned State counsel as well as

learned counsel for respondent No.2 appeared and contested the petition.

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

From the record, I find that in the present case FIR was got registered by Rohit Kumar on the allegations that for getting transformer installed, he met Balwan Singh, SDO, who stated that ₹50,000/- has to be paid as bribe for getting the transformer installed and the same is to be given to his contract Shish Pal Mehta. A raid was conducted; money was given to SDO Balwan Singh, who handed over the same to Shish Pal Mehta. Both were apprehended by laying a trap. In the present case, the FIR was registered on 03.07.2012 and cancellation report was filed on 25.11.2013, which was sent for further investigation. Again, cancellation report was filed on 16.12.2014 and it was again declined on 05.03.2016. No further investigation was conducted and the court ordered the prosecution to apply for sanction against SDO Balwan Singh. No order was passed qua the petitioner. The sanction was declined against SDO Balwan Singh on 19.07.2016. The complainant filed CWP before this Court against the order declining the sanction, which was dismissed on 12.05.2017 by this Court. Thereafter, LPA was filed by the complainant, which was also dismissed by this Court vide order dated 08.05.2018.

From above facts, it is clear that as per prosecution version, bribe was demanded by SDO Balwan Singh but sanction has been declined against him. Therefore, the Court cannot take cognizance against SDO Balwan Singh. As argued by learned counsel for the petitioner, the cancellation has been filed on the ground that alleged amount was to be deposited as installation charges and it was towards official expenses. If that

offence under Section 8 of the PC Act. Furthermore, I find that when SDO Balwan Singh, who demanded the bribe and accepted the same as per complainant, how Shish Pal Mehta can be held liable under Section 8 of the PC Act. SDO Balwan Singh was also present on the spot. As per alleged trap, if the SDO has handed over the money to Shish Pal Mehta after receiving from Rohit Kumar, as per prosecution version, then, Shish Pal Mehta has not committed any offence. Moreover, if it is the case of the prosecution that alleged money was towards the expense for installation of transformer, then how the petitioner can be held liable. As per prosecution version, there is no allegation that Shish Pal Mehta demanded bribe money or he accepted the same. It was SDO Balwan Singh, who demanded the bribe and accepted the same, as per complainant version.

In view of the above discussion, I find that continuation of proceedings on the basis of present FIR, 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.5 dated 03.07.2012 under Sections 7, 8, 13 of the Prevention of Corruption Act and Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station State Vigilance Bureau, Panchkula along with all subsequent proceedings are hereby quashed qua the petitioner.

December 03, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No