

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

CRM-M-35347-2018 (O&M)

Date of Decision:-29.10.2018

Vijay Bhushan Bhardwaj

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sudershan Goel, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

1. By way of filing this petition, the petitioner assails following three orders:-
 - i. Order dated 19.4.2017 (Annexure P-13), which is in the nature of an order passed by the Governor of Haryana in exercise of powers under Section 34 of Industrial Disputes Act read with Section 32 of Industrial Disputes Act for prosecuting the petitioner Vijay Bhushan Bhardwaj, Ravi Bhushan Bhardwaj and Alok Bhardwaj for offence under Section 29 of Industrial Disputes Act, 1947;
 - ii. for quashing of impugned orders dated 2.5.2017 (Annexure P-14) and 28.8.2017 (Annexure P-15) passed by learned Chief Judicial Magistrate, Faridabad; and
 - iii. quashing of order dated 19.1.2018 (Annexure P-17) and 20.2.2018 (Annexure P-18).
2. A few facts necessary to notice for disposal of this petition are that a settlement dated 2.1.2015 was reached at between the employees and the management of Sun Flag Hospital and Research Centre, Faridabad but since the management had allegedly failed to implement some of the terms of the said settlement, therefore proceedings were initiated for filing complaint

against the management. Vide order dated 2.8.2016 (Annexure P-4), the Governor of Haryana, in exercise of powers conferred under Section 34 read with Section 32 of Industrial Disputes Act, 1947 (hereinafter referred to as "*the Act*"), accorded sanction for prosecuting Priya Bhushan Bhardwaj, Chairman and Dr Deepak Gupta, CEO of Sun flag Hospital.

3. A complaint under Section 29 and 30 of the Act was accordingly instituted in the Court of CJM, Faridabad on 29.8.2016, whereupon the learned CJM summoned the aforesaid two accused. In pursuance to the notices issued, the accused Deepak Gupta put in appearance and was granted bail whereas Priya Bhushan Bhardwaj was reported to have expired.
4. Thereafter, the Employees Union moved an application dated 20.12.2016 (Annexure P-9) to the Labour Inspector intimating that after death of Priya Bhushan Bardwaj, Chairman, the three trustees of Bhardwaj Welfare Trust are responsible for non-implementation of the settlement under Section 12(3) of the Act and that the said persons be proceeded against. The Labour Inspector wrote a letter dated 27/03/2017(Annexure P-10/A) to Assistant Labour Commissioner, recommending filing of challan against three persons namely the petitioner Vijay Bhushan Bhardwaj, Ravi Bhushan Bhardwaj and Alok Bhardwaj being trustess of the Bhardwaj Welfare Trust. The matter was processed and ultimately the Governor of Haryana accorded sanction for prosecuting the petitioner Sh. Vijay Bhushan Bhardwaj, Shri Ravi Bhushan Bhardwaj and Sh. Alok Bhardwaj vide order dated 19.4.2017 (Annexure P-13), which has been impugned in this petition.
5. The learned counsel for the petitioner while assailing the aforesaid sanction order dated 19.4.2017 has submitted that it is based simply on a letter

written by the Employees Union without any enquiry having been made and as such the same is not sustainable in the eyes of law.

6. I have considered the aforesaid submissions.
7. It is no doubt correct that after the notice issued to accused Priya Bhushan Bhardwaj was received back with the report that he has already expired, the Employees Union furnished the names of the three trustees to the Labour Inspector and who conveyed the same to the Assistant Labour Commissioner but it was after due processing of the same that the Governor was pleased to accord sanction for filing complaint against the three trustees. A perusal of the order Annexure P-13 shows that the same has been passed by the Governor of Haryana in exercise of the powers conferred under section 34 read with section 32 of the Act and the Labour Inspector has been authorised to institute a complaint under section 29 of the Act. The order dated 19.4.2017 does not suffer any infirmity so as to warrant any interference in the same.
8. After the aforesaid sanction order had been produced in the Court, the learned CJM issued notices to the aforesaid three trustees namely Vijay Bhushan Bhardwaj, Ravi Bhushan Bhardwaj and Alok Bhardwaj, vide order dated 2.3.2017. However, since the accused did not appear pursuant to issuance of notices bailable warrants were issued but the same also remained unexecuted and consequently non-bailable warrants were issued vide order dated 28.8.2017 for securing their presence.
9. Thereafter, the petitioner Vijay Bhushan Bardwaj challenged order dated 2nd of May 2017 by filing a revision petition in the Court of Sessions at Faridabad on 7.9.2017. Vide order dated 7.9.2017 the execution of non-

bailable warrants issued by CJM were stayed. However subsequently the said stay order was vacated vide order dated 19.1.2018.

10. It has been informed today by the learned counsel for the petitioner that while the revision petitions filed by the other two co-accused are still pending, the present petitioner, however chose to withdraw his revision petition. Since the petitioner after having chosen to avail of an efficacious remedy of filing revision petition against order dated 2.5.2017, intentionally chose to give up the same by withdrawing his revision petition before Addl. Sessions Judge, this Court does not find any valid ground to interfere with the order dated 2.5.2017. In any case, the petitioner being a trustee of Bhardwaj Welfare Trust would be *prima-facie* responsible in case of non-compliance of terms of the compromise warranting his summoning to face trial as accused in respect of a complaint filed by the Employees Union under Section 29 of the Act.
11. The petitioner has also assailed order dated 19.1.2018 vide which the stay of execution of non-bailable warrants was vacated; and also order dated 20.1.2018 whereby arrest warrants have been issued against the petitioner Vijay Bhushan Bhardwaj and co-accused Ravi Bhardwaj. Nothing has been shown to this Court as to justify recalling of the arrest warrants.
12. Finding no merit in the petition, the same is hereby dismissed. However, in case the petitioner chooses to surrender before the Trial Court within two weeks from today and moves an application for grant of regular bail the learned Trial Court shall endeavour to dispose off the same on the day of the filing itself while taking a lenient view in the matter in view of the fact

that it is a matter involving an offence where the maximum sentence provided is six months.

29.10.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No