In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Revision No.2362 of 2017 (O&M)

.....

Date of decision:14.9.2018

Shiv Rattan Kumar

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Ashok Singla and Mr. Aakash Singla, Advocates for the petitioner.

Ms. Monika Jalota, Deputy Advocate General, Punjab for the respondent-State.

.....

Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned order dated 5.5.2017 passed by learned Additional Sessions Judge, S.A.S. Nagar (Mohali), vide which the petitioner has been charge-sheeted for the offences under Sections 120-B, 420, 176 read with Section 120-B IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act and his application filed under Section 227 Cr.P.C. to discharge him in case FIR No.13 dated 16.05.2005 registered for the offences under Sections 420, 176 and 120-B IPC and Sections 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act at Police Station Phase-1, Mohali, has been dismissed.

HARPAL SINGH PARMAR
2018.09.21 16:36
I attest to the accuracy and
authenticity of this document
Chandigarh

Notice of motion has been issued in this case.

Ms. Monika Jalota, learned Deputy Advocate General, Punjab has appeared on behalf of the respondent-State and contested this criminal revision petition.

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

It has been stated in the application by the present petitioner that the challan under Section 173 Cr.P.C. and the documents appended therewith do not even *prima facie* constitute any offence against him. As per the prosecution version, total 12237 Kanals 10 Marlas area of *Teeka Shamlat* (Phangota and its *Teekas*) is shown to have been acquired for the construction of reservoir of Ranjit Sagar Dam out of which 9000 Kanals of land was not available at the spot. Thus, payment of total ₹3,57,40,880/- was illegally obtained by the villagers by keeping the Court in dark and payment of ₹1,24,10,979/- was also wrongly paid to the proprietors when Gram Panchayat, Phangota was owner of land. Kuldeep Raj, Sarpanch did not properly pursue the case. Petitioner Shiv Rattan Kumar and some other officials of Panchayat Department did not take interest to protect the government interests in the Court. It is stated that neither in the original challan nor in supplementary challan, the applicant has been attributed any overt act. The land in question was acquired on 30.09.1987 i.e. much prior to applicant's posting at Dhar Kalan and possession of the acquired land was again taken on 06.06.1989 i.e. before appointment of the applicant in service. The award was also passed earlier to his service. He has also stated

HARPAL SINGH PARMAR
2018.09.21 16:36
I attest to the accuracy and
authenticity of this document
Chandigarh

that under the Land Acquisition Act, it was duty of the office of Land Acquisition Collector or the authorities of the Ranjit Sagar Dam to make survey and measurements of the land at the time of issuing notifications of acquisition. It is also stated in the application that the present petitioner remained posted as BDPO at Dhar Kalan from 18.01.1996 to 13.07.1998 only whereas, application under Sections 18 and 30 of the Land Acquisition Act by Karam Chand and others was filed on 2.5.1988.

The learned trial Court found that prima facie case is made out from the perusal of the challan under Section 173 Cr.P.C., the documents appended therewith and the statements recorded under Section 161 Cr.P.C. that accused persons agreed to do an illegal act to prepare false revenue record in order to pronounce Award No.76 dated 29.3.1988 by Babu Ram, Land Acquisition Officer for the land acquired for construction of Ranjit Sagar Dam at Shahpur Kandi on the acquired land and to illegally take away sum of ₹3,57,44,838/- including ₹19,62.942/- paid to the Income Tax Department dishonestly represented to deliver to all the accused except Babu Ram and Balbir Chand different amounts, projecting themselves to be the owners of the acquired land to the extent of 9000 Kanals, which was never existing at the spot. The accused Babu Ram, Balbir Chand and Shiv Rattan Kumar along with other officials by corrupt and illegal means obtained for their co-accused pecuniary advantage to the tune of huge amount.

It is settled law that at the time of framing of charge, the Court is to see *prima facie* case. Admittedly, the petitioner remained posted from

HARPAL SINGH PARMAR
2018.09.21 16:36
I attest to the accuracy and
authenticity of this document
Chandigarh

January 1996 to July 1998, but during the proceedings he never pointed out to the competent authorities that compensation paid of excess amount. 9000 Kanals land was not existing on the spot and the amount had been disbursed to so many persons wrongly. At the time of framing of charge, the Court is only to see whether *prima facie* case is made out from the challan or not. At this stage, the Court is not to weigh the evidence for the purpose of conviction. Even strong suspicion is sufficient to frame the charges.

From the perusal of the record, I find that the charges have been framed against the present petitioner. The learned trial Court has correctly held that *prima facie* case is made out against the petitioner and no ground is made out for discharge of the accused. Section 120-B IPC is also alleged against all the accused in this case.

Therefore, from the above discussion, I find that no illegality has been committed by the learned trial Court by passing the impugned order and the same is upheld.

Therefore, finding no merit in the criminal revision petition, the same is dismissed.

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

September 14, 2018. **(Inderjit Singh)**
Judge

hsp

NOTE: Whether speaking/reasoned: Yes
Whether reportable: No

HARPAL SINGH PARMAR
2018.09.21 16:36
I attest to the accuracy and
authenticity of this document
Chandigarh