IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-4507-2017(O&M)
Date of decision:- 2.5.2018

Sanjay Gupta and another

...Petitioners

Versus

Deputy Director, Directorate of Enforcement

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.R.S.Atwal, Advocate
for the petitioners.

Mr.S.S. Sandhu, Advocate
for the respondent.

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H.S. MADAAN, J.

The present revision petition is directed against the order directing framing of charge and the charge so framed by the Court of Sessions Judge, Gurugram. According to the petitioners/accused, the order directing framing of charge and charge-sheet actually served are not maintainable.

Briefly stated, facts of the case are that on 27.12.2010, an application was submitted by Assistant Vice President, Citi Bank – complainant mentioning in the said application that Prem Nath had opened an account with their bank in September, 2009; Relationship Manager Shiv Raj Puri had opened a joint account in the names of Prem Nath, Shela Prem Nath and Diksha Puri, all three of them were close relatives of Shiv Raj Puri; in December, 2010 on perusal of the bank account, it came out that huge amounts of money had been transferred; the bank got information that investors were depositing money for high rate of interest as per bank policy; it further transpired that Shiv Raj Puri had fabricated the circular of SEBI, FDR and bank statements illegally. According to the petitioners, the allegations against them were only with respect to offences mentioned in FIR i.e. 420, 467, 471 & 120-B IPC, which fell in Part B, Paragraph one of Schedule under the Prevention of Money Laundering Act, which were prevalent at that time; the Gurgaon police after investigation had submitted report and filed charge-sheet on 28.3.2011; that learned trial Court had convicted the accused persons vide judgment dated 25.2.2014; that petitioner No.1 Sanjay Gupta was convicted under Section 420 IPC as well as under Section 120-B IPC read with Section 420-B IPC, sentencing him to undergo rigorous imprisonment for a period of two years and six months and to pay a fine of Rs.10,000/- and in default of payment of fine, to further undergo simple imprisonment of one month, whereas petitioner No.2 Gaurav Jain was convicted under Section 120-B IPC read with Section 420-B IPC, sentencing him to undergo rigorous imprisonment for a period of two years and six months and to pay a fine of Rs.10,000/- and in default of payment of fine, to further undergo simple imprisonment of one month. However, the petitioners were acquitted in all other charges; the

Enforcement Directorate has failed to consider and appreciate the fact that allegations against the petitioners were only with respect to an offence under Section 420-B IPC, which fell in Part B, Paragraph 1 of the schedule under the Prevention of Money Laundering Act; that the trial Court framed the charge in a mechanical manner without application of mind; that there is contradictions in the charge-sheet itself inasmuch as on page 1 of charge-sheet, the period has been stated as October, 2009 and December 2012, whereas on the second page of the charge-sheet, the period has been stated as 28.10.2009 to 2.12.2010.

Notice of the petition was issued to the respondent, who put in appearance through counsel.

In the written reply submitted on behalf of respondent, it has been contended that Shivraj Puri, Raghuraj Puri, Rajender Chand, Sanjay Gupta, Gaurav Jain and Deekhsa Puri had committed various offences punishable under various provisions of Indian Penal Code and as such FIR No.341/2010 was registered at Police Station DLF Phase-II, Gurgaon, under Sections 420/467/471 and 120-B IPC, which are scheduled offences under the Prevention of Money Laundering Act, 2002; that during the course of police investigation, Shivraj Puri, Raghuraj Puri, Rajender Chand, Sanjay Gupta and Gaurav Jain were arrested by the officers of Haryana Police, Gurgaon, though Deeksha Puri could not be arrested and was declared a proclaimed offender; that M/s Lalit Jatin & Co., a Chartered Accountant Firm had examined the various transactions; accused Shivraj Puri, Sanjay Gupta and Gaurav Jain were convicted and sentenced for various offences. In the end, such respondent prayed for dismissal of the petition.

I have heard learned counsel for the parties besides going through the record.

As per the prevention of Money-Laundering (Amendment) Act, 2009, as per paragraph – 1, there are several offences under the Indian Penal Code, which include offence under Section 420 IPC dealing with cheating and dishonestly inducing delivery of property. In ***Asian Resurfacing of Road Agency Pvt. Ltd. and another Versus Central Bureau of Investigation, 2018(2) RCR(Criminal) 415***, it has been observed that when an order of framing of charge had been challenged, there is no bar to jurisdiction of the High Court to consider a challenge against an order of framing charge in exceptional circumstances and exercise of such jurisdiction has to be limited to rarest of rare cases. In this very authority, it has been observed that order framing charge may not be held to be purely interlocutory order and can in a given situation be interfered with under Section 397(2) Cr.P.C. or 482 Cr.P.C. or Article 227 of the Constitution but power of the High Court to interfere with an order framing charge and to grant stay is to be exercised only in an exceptional situation.

The Court can amend the charge at any time. If the petitioner has got any grouse, he can approach the trial Court for getting out necessary correction in the charge carried out, if some mistake therein is actually found to be there.

It is well settled law that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise.

Finding no merits in the petition, the same stands dismissed.

2.5.2018 **(H.S.MADAAN)**
Brij **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No