

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.245

CRM-M-23870-2017 (O&M)
Date of decision : 8.2.2019

Parjinder Singh and another Petitioners

VERSUS

State of Haryana and another Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. BS Jaswal, Advocate, for the petitioners.

Mr. Deepak Grewal, DAG, Haryana

SUDHIR MITTAL, J. (Oral)

The petitioners seek quashing of FIR No.67 dated 2.4.2017, registered at Police Station Jakhal, District Fatehabad, under Section 61 of the Punjab Excise Act, 1914 and all subsequent proceedings having arisen therefrom.

According to the FIR, on the basis of secret information, a raid was conducted during the night of 1/2-4-2017 and one Dev Singh son of Chhajji Singh was found loading liquor boxes of country liquor in a Swift car from the old liquor vend. He was being assisted by a young boy, who managed to flee in the darkness, however, Dev Singh son of Chhajji Singh was arrested at the spot. Subsequently, the petitioners have also been named in the FIR.

Learned counsel for the petitioners submits that a country liquor vend was allotted to petitioner No.1 vide letter dated 21.3.2017 and pursuant thereto, a sum of Rs.44 lakhs was deposited as earnest money. Letter dated 31.3.2017 (P2) issued by DTO, Fatehabad, makes it clear that the old liquor

stock was to be handed over to the liquor contractor for the year 1.4.2017 to 31.3.2018. Thus, at the time when the raid was conducted, the petitioners were transporting the liquor stock of the earlier contractor and they have been falsely implicated in this case. On account of registration of the FIR, the petitioners had to surrender the licence and vide order dated 25/26.4.2017, liquor vend was re-allotted to a third party. The evidence on record, thus, indicates that the registration of the aforementioned FIR is abuse of the process of law and accordingly, the FIR deserves to be quashed.

On the basis of reply filed on behalf of the State of Haryana, learned State counsel submits that petitioner No.1 has been declared innocent during the investigation and only petitioner No.2 is accused being the driver of the vehicle in which the contraband was being loaded. The investigation shows that the petitioner No.2 has committed an offence and therefore, there is no ground for quashing of the FIR.

In para 4 of the petition, it has been specifically averred that petitioner No.1 was allotted liquor vend contract for the year 1.4.2017 to 31.3.2018. In para 5, it has been further averred that the liquor stock recovered by the police was infact the liquor stock of the old contractor. A perusal of para Nos.4 and 5 of the reply shows that the allotment regarding liquor vend was admitted and there is no specific averment denying that liquor was belonging to old contractor. Thus, impliedly, the State accepts submission of the petitioners that the stock recovered by the police actually belonged to the old contractor. Under these circumstances and keeping in view the fact that petitioner No.1(allottee of the liquor vend) has already been exonerated, it has to be held that registration of the aforementioned FIR and continuation therewith, is gross abuse and misuse of the process of law.

Accordingly, the petition is allowed and FIR No.67 dated 2.4.2017, registered at Police Station Jakhal, District Fatehabad, under Section 61 of the Punjab Excise Act, 1914 and all consequential proceedings having arisen therefrom, is quashed qua the petitioners.

(SUDHIR MITTAL)
JUDGE

8.2.2019
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No