IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

101 CRM-M-25752 of 2018
Date of decision:31.10.2019

Jaswinder Singh Lotey
... Petitioner

versus

State of Punjab and another
... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.R.S.Rai, Sr.Advocate, with
Ms.Supriya Arora, Advocate,
for the petitioner
Br.B.S.Sewak, Addl.AG, Punjab
Mr.Avnish Mittal, Advocate,
for respondent no.2.
...

AMOL RATTAN SINGH, J. (Oral)

Having heard learned counsel for the parties at length over a period of 3 days, as regards the document being relied upon by Mr.Rai, learned Senior Counsel appearing for the petitioner, (shown in the index to be Annexure P-3, with the vernacular version thereof shown to be Annexure P-2, at running page 103 of the paper book), which is stated to be a 'self declaration', that is a very 'doubtful document' to accept at this stage at least, for the purpose of grant of bail, it being seen that the “self declaration” is not signed immediately below the main body of what is contained therein, and even as regards the signature present after the verification shown, it is not at an appropriate place where any such signature would normally be, considering especially the fact that the petitioner is a lawyer and would obviously know as to how a declaration is to be signed; and consequently, if it was to be got signed from the complainant, it would have been appropriately signed at the relevant places.

Mr.Rai has, of course, very strenuously argued that the complainant has not denied the signature on the document, and therefore for this Court to arrive at a conclusion that it is not a document to be relied upon, is a conclusion that should not be drawn.

Mr.Mittal, appearing for the complainant, on the other hand submits that the petitioner, as the complainants' lawyer, had taken his signatures on blank papers, and since he had been his lawyer for some time he did not refuse to do so, and consequently, even if the signatures are found to be that of the complainant, that does not authenticate the document.

Mr.Rai has submitted that no such ground has been taken in the reply filed to the petition, with the said ground not taken even in the petition filed by the complainant seeking that a fair investigation be conducted by an independent agency, like the CBI (CRM-M-18281 of 2018, which is also listed today).

Mr.Sewak, learned Addl.AG, Punjab, in response to the aforesaid contention of Mr.Rai, however, submits that even in the complaint filed by the complainant to the SSP, Police District Khanna, he had stated that the petitioner took his signatures on some blank papers.

It is further to be again observed by this Court that <u>no conclusion</u> has been reached by this Court as regards the aforesaid document, as has already been observed herein above earlier, with it only being observed that for the purpose of grant of anticipatory bail to the petitioner, the document being relied upon by him is not believable at the face of it, subject of course to further investigation in that regard by the police.

Other than that, it is necessary to again in this order to refer to the status report of Dr.Amanpreet Kaur Walia, Deputy Director of Income Tax (Inv.)-1, Ludhiana, as has been annexed with the status report dated 7.5.2019 filed by Shri Surjit Singh, Deputy Superintendent of Police, Payal, that as per the enquiry conducted by a survey team of that department, the *challans* produced by the assessee, i.e. the complainant, were found to be 'fake'.

Mr.Rai has however further submitted that with the complainant having alleged a fraud of 'only' Rs.54.00 lakhs in the FIR, the amount of Rs.1.00 crore plus deposited by him in the bank account of M/s Rely India Infotech (of which the petitiones' wife is the Proprietor), would “have no explanation”, because very obviously the petitioner thereafter also deposited an amount of Rs.1,14,17,660/- as tax with the Income Tax Department in January 2018, upon a request to that effect having been made by the complainant, as in fact the petitioners' wifes' firm owed the complainant that much money in respect of the deposits made in his wifes' firms' account.

He thus submits that it was not the duty of the petitioner to deposit the income tax dues of the complainant, but the complainant was only paying off his wifes' firms' debt to the complainant by way of depositing the tax as and when directed (even though the tax is stated to be for the assessment year 2014-15).

In reply thereto, Mr.Mittal points to Annexure P-8 with the petition, which is shown to be a statement of the petitioner before the investigating officer, made on 22.2.2018, to the effect that though the wife of the petitioner is an Engineering graduate, (but is otherwise a house wife), who has an account in the name of M/s Rely India Infotech, with the said account opened by the petitioner (Jaswinder Singh Lotey) 'to facilitate his clients to deposit income tax returns'.

Having considered the above, firstly, it would be very surprising that an income tax practitioner would get his wife to open an account in respect of a firm of which she is stated to be the proprietor of, for deposit of income tax dues of clients of the practitioner, for them to be thereafter transferred to the Income Tax Department; but even taking it that the aforesaid Annexure P-8 is an unsigned statement made before the investigating officer under Section 161 of the Cr.P.C. (as stated by learned counsel), which the petitioner can deny at any stage, the whole matter obviously needs to be investigated very thoroughly, as to whether it is the petitioner, his wife, or the complainant, individually, or in collusion with other and/or in collusion with any body else, that had attempted to avoid payment of income tax till they were in deep waters and the Income Tax Department had started issuing notices for non-deposit of taxes, with *challans* showing payment of tax found to be fabricated documents by the Income Tax Department.

Thus, without making any further comment on the actual merits of the case, or otherwise, which would naturally still be subject matter of investigation, I see no reason to entertain this petition, or to let the petitioner continue to remain on interim bail any further.

Consequently, the petition is dismissed and the interim order dated 2.7.2018 is vacated.

31.10.2019 **(AMOL RATTAN SINGH)**
pk **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No