

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

234

C.R.M-M No.28864-2013 (O&M)

Date of Decision : 11.01.2019

Rajpal Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr.Vikram Chaudhri, Senior Advocate with
Ms. Isha Goyal, Advocate
for the petitioner

Mr. Ramandeep Sandhu, Senior DAG, Punjab.

AJAY TEWARI, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.17 dated 09.09.2011, registered under Section 7 read with Section 13(2) of Prevention of Corruption Act, 1988 (for brevity 'PC Act') registered at Police Station Vigilance Bureau, District Amritsar whereby the trial Court directed framing of charges against the petitioner for commission of offence under Section 7 read with Section 13 (2) of the PC Act, despite there being no mandatory sanction under Section 19 of the PC Act as well as consequential charge sheet framed by learned trial Court on 06.08.2013.

Learned senior counsel for the petitioner has argued that on two occasions sanction has been refused but the trial Court wrongly went ahead

with the trial holding that the petitioner was not a Govt. servant. He has

relied upon *CRM-M-29605 of 2013 titled as Kanwaljit Singh Vs. State of Punjab decided on 25.05.2017.*

On the other hand learned Senior DAG has relied upon *Amarjit Singh (Patwari) Vs. State of Punjab, 2012 (3) RCR (Criminal) 79.* In both the cases the persons were employed in the Revenue Department.

In *Amarjit Singh (supra)* the Co-ordinate Bench took the view since Patwari was removable by the District Collector he would not be entitled to the protection of Section 19 of the PC Act.

Learned senior counsel appearing for the petitioner points out that this is a case which would be covered by Section 19 (1) (c) and not by Section 19 (1) (b) because if the prosecution is under the PC Act it can only be of public servant and a person who is not a public servant can not be prosecuted under the PC Act.

In my considered opinion the judgment of *Kanwaljit Singh (supra)* would be more applicable. As mentioned above on two occasions the prosecution sought sanction but it was declined. Consequently, this petition is allowed and the above said FIR alongwith other consequential proceedings qua petitioner is quashed.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

11.01.2019

pooja sharma-I

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No