

**103+229 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 26589 of 2013 (O&M)

Date of Decision: 06.09.2019.

Rita Rani Sood

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Ms. Shivya Sehgal, Advocate,
for the petitioner.

Ms. Anju Sharma Kaushik, DAG Punjab.

JITENDRA CHAUHAN.J.(ORAL)

CM-9966-CWP-2019

The application is allowed as prayed for. Annexures
Z-1 and Z-2 are taken on record subject to all just exceptions.

Main case

Through the instant civil writ petition, the petitioner
has sought quashing of charge-sheet dated 5.11.2013 (Anneuxre P-7)
along with all consequential proceedings arising on the basis of said
charge sheet issued against the petitioner by respondent No.2.

It is submitted that the petitioner is presently posted
as Senior Assistant, IIIrd Indian Reserve Battalion, Ludhiana. She had
purchased a house measuring 266-2/3 sq. yards from one Jaswant Rai
for a total consideration of Rs.1,75,000/-. Being the owner of the said
house comprising in khewat Khatuni No. 579/607, Killa No. 9//21/2 as

per Jamabandi for the year 1996-97, the petitioner entered into an agreement to sell half portion of the above said house with one Shashi Sharma wife of Sh. Vijay Kumar. The total sale consideration was settled at Rs.16,90,000/-. The petitioner received earnest money of Rs.3 lakh and the date of registration of sale deed was fixed as 28.02.2012. Said Vijay Kumar moved an application for taking action against the petitioner and her husband as he came to know that the property in question already stood mortgaged with Punjab National Bank, Branch Nangal Township for a loan of Rs.1,25,00,000/-. On the basis of said application, FIR No.145 dated 02.07.2012 under Sections 406, 420 and 120-B IPC was registered at Police Station Salem Tabri, District Ludhiana (Annexure P-1). Thereafter, the petitioner sent a telegram (Annexure P-2) to said Shashi Sharma that the petitioner was ready to give possession of the house or double the amount of earnest money.

It is further submitted that thereafter the department issued her a show cause notice followed by a reminder dated 05.11.2013 (Annexure P-5) and charge-sheet dated 05.11.2013 (Annexure P-7).

It is contended that later on, the matter was compromised between the petitioner and the complainant and on the basis of compromise, the FIR No. 145 dated 02.07.2012 was quashed by this Court in CRM M-10118 of 2015 (Annexure Z-2).

It is further contended that the charge sheet had been

issued to the petitioner pertaining to a private dispute regarding sale of some property by the petitioner to the complainant, Vijay Kumar which has no relation with the service of the petitioner, as she had not committed any illegality during her service for which she could be charged and punished under the Service Rules. The FIR lodged by Vijay Kumar against the petitioner now stands quashed vide judgment dated 27.08.2015 passed in CRM M-10118 of 2015 (Annexure Z-2). The petitioner cannot be proceeded against with in the departmental enquiry for the same allegations.

On the other hand, on behalf of the respondents, it is contended that the petitioner along with her husband had cheated the complainant, Vijay Kumar which led to registration of the FIR against the petitioner, therefore, the petitioner was rightly charge-sheeted. The petitioner will have all the right to produce the copy of judgment vide which the FIR has been quashed by this Court. The department will consider and appreciate the factum of quashing of the FIR at the appropriate stage.

Heard.

It is to be seen that FIR No.145 dated 02.07.2012 is the sole ground of the charge-sheet. It has come on the record that vide judgment dated 27.08.2015 (Annexure Z-2), the said FIR stands quashed by this Court. It has also come on the record that the dispute in the FIR was with regard to sale of a house to Shashi Sharma which was lying mortgaged with Punjab National Bank. This Court is of the

opinion that the dispute *inter se* the parties being personal in nature and did not affect the nature of duties discharged by the petitioner towards her department. Moreover, once the FIR, which is the basis of the charge sheet, stands quashed, the charge sheet is bound to crumble down.

In **Bal Kishan vs. Municipal Corporation Faridabad**

2002(3) RSJ (Pb & Hr.) 487, it was held as under:-

“It is the right of the employer to proceed departmentally against its Officer/Official if such officer/official commits such acts of commission or omission in the discharge of his official duties. Before a public servant is to be charge-sheeted the employer has to keep in his mind that charges must be in relation to the duties which are likely to be discharged by a public servant during the course of employment. Such public servant can also be charge-sheeted for his act of omissions if those acts of omissions flow from his duties. However, in the present case, the reading of the charges would show that none of the charge relates to the duties of the petitioner.”

In view of the above, the present civil writ petition is allowed. The charge sheet dated 5.11.2013 (Annexure P-7) along with consequential proceedings arising therefrom, is hereby quashed.

06.09.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

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