In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.43287 of 2018 and
Criminal Misc. No.2730 of 2019 and
Criminal Revision No.3847 of 2018 (O&M)

.....

Date of decision:29.01.2019

Rajesh Khanna

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Arnav Kumar Sood, Advocate for the petitioner.

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Inderjit Singh, J.

Cr. Misc. No.43287 of 2018:

For the reasons mentioned in the criminal miscellaneous application, the documents annexed as Annexures-P.1 to P.4 are taken on record subject to just all exceptions.

The criminal miscellaneous application is allowed.

Cr. Misc. No.2730 of 2019:

For the reasons mentioned in the criminal miscellaneous application, the documents annexed as Annexures-P.5 to P.12 are taken on record subject to just all exceptions.

The criminal miscellaneous application is allowed.

Cr. Rev. No.3847 of 2018 (O&M):

This criminal revision petition has been filed under Section 401

Cr.P.C. challenging the impugned order dated 3.11.2018 passed by learned Judicial Magistrate Ist Class, Kharar, whereby application for discharge of applicant-Rajesh Khanna has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

A perusal of the record shows that an application has been filed by present petitioner-Rajesh Khanna for his discharge from the case registered vide FIR No.66 dated 30.3.2017 on the complaint of Bank Manager, UCO Bank, Sector 17, Chandigarh, on the pretext of grant of loan for purchase of cars/vehicles. It has been submitted that the name of the applicant/petitioner has not been mentioned in the FIR and in the Police report dated 2.2.2018. It has also been submitted that no specific allegations have been attributed against the present petitioner in order to constitute any offence alleged in the FIR. It has been stated in the application that since no specific ground is alleged against the applicant/ petitioner, hence, he be discharged from the FIR.

Before the learned trial Court, reply was filed by the APP in which it has been stated that the applicant has been named in the charge-sheet after detailed inquiry conducted by the Economic Office Wing, Mohali, upon an application moved by Shri A.K. Galocha, General Manager, UCO Bank, Sector 17, Chandigarh. The applicant was the Manager of UCO Bank and he was the master mind behind the entire occurrence and his role is depicted and described in the report filed under Section 173 Cr.P.C. It has also been mentioned in the reply that there are specific attributions against the present petitioner as he has duped the Bank and general public to the tune of ₹3,65,00,000/-. It has been submitted that there is sufficient material on record to charge-sheet the accused/petitioner.

The learned Judicial Magistrate Ist Class, Kharar, after perusing the record, found that the applicant Sanjay Khanna was the Bank Manager at the time of fraud. The applicant is named as Sanjay Khanna and during his interrogation, it is admitted by him that he is also known as Rajesh Khanna. It is on record that the offence was committed with his connivance. Hence, finding no ground to discharge, the application has been dismissed.

At the time of arguments, learned counsel for the petitioner mainly argued on two points that the petitioner is not named in the FIR and no specific allegations have been levelled against him. It is settled law that at the time of framing of the charge, the Court is only to see *prima facie* case whether it is made out or not. At this stage, the trial Court is not to weigh the evidence for the purpose of conviction. It is only to be seen whether some offence against the accused is made out or it is a case of no offence. Even a strong suspicious is enough to frame the charges.

In the present case, the petitioner was posted as Bank Manager. It is admitted fact and has not been contested at the time of arguments. On the specific query by this Court to the learned counsel for the petitioner as to whether any Sanjay Khanna had remained as Manager in the Branch during the relevant period. Learned counsel for the petitioner replied in the negative. It is in the order of the learned trial Court that this Sanjay Khanna has been named as the Manager of the Bank and during investigation, the present petitioner has admitted that he is also known as Rajesh Khanna.

The Bank suffered a loss of ₹3,65,00,000/- and the involvement of the present petitioner has been found in the fraud. In no way, it can be held that no *prima facie* case is made out against the petitioner. The allegations in the FIR are that 36 fraud cases have been found of the loanees who have given fake and forged documents. These loan cases were of the period when the petitioner was posted as Manager. As per the prosecution version, the demand drafts of loan amount in favour of Automobile Dealers were made and these were deposited in the account of Automobile Dealers and the Bank money was misappropriated, as there is no actual delivery of the cars/vehicles in these cases and all this has been done under the criminal conspiracy and fraudulently to misuse the public money.

Further, in no way, it can be held that all this has been done by the present petitioner in discharge of his official duties and the impugned order dismissing the application for discharge passed by the petitioner by the learned trial Court is correct as per law and it does not require any interference from this Court.

Therefore, finding no merit in this petition, the same is dismissed.

However, nothing stated above will constitute my opinion on the merits of the case.

January 29, 2019.

(Inderjit Singh)
Judge

hsp

NOTE: Whether speaking/reasoned: Yes

Whether reportable: No