

CRM-M No. 22013 of 2020 (O&M)
CRM-M No. 22212 of 2020 (O&M)

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102 (2 cases)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No. 22013 of 2020 (O&M)
Date of Decision: 01.09.2020

Umesh

-Petitioner

Versus

State of Haryana

-Respondent

CRM-M No. 22212 of 2020 (O&M)

Mool Chand

-Petitioner

Versus

State of Haryana

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sandeep Kumar Yadav, Advocate,
for the petitioner (in CRM-M No.22013 of 2020).

Mr. Rao Ajender Singh, Advocate,
for the petitioner (in CRM-M No.22212 of 2020).

Mr. Rajat Gautam, D.A.G., Haryana.

Mr. J.S. Bedi, Sr. Advocate, with
Mr. Sunil Sihag, Advocate,
for the complainant.

RAJ MOHAN SINGH, J. (Oral)

The cases have been taken up for hearing through
video-conferencing.

Vide this common order, CRM-M No. 22013 of 2020 titled 'Umesh vs State of Haryana' and CRM-M No. 22212 of 2020 titled 'Mool Chand vs State of Haryana' are being disposed of.

Since both the cases have arisen from same FIR, therefore, common facts are being noticed.

Petitioner(s) seek grant of anticipatory bail under Section 438 Cr.P.C. in case bearing FIR No.07 dated 14.08.2019 registered under Sections 177, 181, 409, 417, 420, 466, 468, 471, 120-B IPC and under Section 13(1) (c) and 13(1) (D) of P.C. Act, at Police Station State Vigilance Bureau, District Gurugram.

Petitioner- Umesh (in CRM-M-22013-2020) is working as Panchayat Secretary. Allegations are of embezzlement of the amount towards 100 dustbins which were to be installed in the year 2016. Contention of the petitioner- Umesh is that infact 200 dustbins were installed in the year 2016, but checking of those dustbins was made in the year 2018. Infact, dustbins were installed in the village as well as in other dhanies and the dustbins installed in the village were only counted and not of the dhanies, therefore, allegations are not correct and there is every possibility that the dustbins must have been removed by the villagers after their installation in the year

2016.

Learned State counsel duly assisted by learned counsel for the complainant contended that only 100 dustbins were found installed at the spot in the village. Infact remaining 100 dustbins were never installed, but the petitioner- Umesh was instrumental in issuing cheque to M/s A.K. Construction, Faizabad. In the year 2016, petitioner was posted as Panchayat Secretary in Gram Panchayat, Bhungarka, District Narnaul. On 05.03.2016, a resolution was entered in the proceeding book of the Gram Panchayat in respect of installation of dustbins in the village. Another resolution was passed on 30.04.2016 in respect of purchase of 100 dustbins through bill No.279 from M/s A.K. Construction, Faizabad and also about making of payment of Rs.4,29,875/- to the aforesaid M/s A.K. Construction through Cheque No.909710 from account No.0883000109171323. Subsequently, one more resolution was passed on 28.05.2016 in respect of purchase of 100 more dustbins through bill No.285 from M/s A.K. Construction, Faizabad and also about making of payment of Rs.4,29,875/- to the aforesaid concern vide Cheque No.909712 from the same account number. Though the resolution in respect of purchase of dustbin was entered in the proceeding book of the Gram Panchayat, the cost price of one dustbin was not recited therein.

A detailed enquiry has been conducted along with technical assessment of the dustbin by the State Vigilance Bureau after proper spot inspection. During the enquiry, it was found that only 100 dustbins were installed in the village, whereas 200 dustbins were shown to be purchased and installed in the village.

Statements of Panches namely Sushila Devi, Suman, Sunita, Sunil, Neeru Yadav, Leela Ram, Krishan Kumar and Ishwar were recorded who have testified that the Sarpanch had purchased only 100 dustbins.

Allegations were made that the petitioner- Umesh (Sarpanch) (in CRM-M-22013-2020) in connivance with Ashok Kumar, Proprietor of M/s A.K. Construction has embezzled the amount towards 100 dustbins.

According to the record, an amount of Rs.4,29,875/- was paid to M/s A.K. Construction twice against the purchase of 100 dustbins. In this manner, total amount of Rs.8,59,750/- was paid to M/s A.K. Construction. The price of single dustbin was quoted as Rs.3800/-.

During the inquiry proceedings, technical assessment of the dustbins was done. After considering the weight, quality and size of the dustbin, it was found that the price of one dustbin was Rs.2139/- only. Technical assessment found that

cost price of 200 dustbins would come out to be Rs.4,27,800/-, but the Sarpanch has paid Rs.8,59,750/- in total including taxes. Still, only 100 dustbins were installed in the village. Embezzlement of the amount towards 100 dustbins was alleged. The price of the dustbin was alleged to be less than the amount projected as the same was found to be Rs.2139/- per dustbin as against Rs.3800/- per dustbin.

Petitioner- Umesh (in CRM-M-22013-2020) being the Panchayat Secretary did not mention number of dustbins in the resolution. There is no resolution showing receipt of installation of dustbins in the Gram Panchayat. The resolutions are also silent about price of single dustbin.

Resolution dated 28.05.2016 has some cutting and overlapping in respect of place where cheque number and amount are mentioned. A detailed enquiry has been conducted before lodging the FIR including the report of technical expert i.e. XEN, State Vigilance Bureau, Panchkula.

In the counting of dustbins, only 100 dustbins were found. Proprietor of M/s A.K. Construction has already deposited an amount of Rs.3,80,000/- in the account of Gram Panchayat on 16.12.2019 which itself shows that remaining 100 dustbins were never supplied by the proprietor of the aforesaid concern.

The deposit of the aforesaid amount duly coincides with the rate of one dustbin.

Allegations are that the petitioner being Panchayat Secretary has recorded all the proceedings and also co-signatory of the cheques despite knowledge of the fact that only 100 dustbins were supplied in place of 200 dustbins.

The Sarpanch is still at large.

Petitioner- Umesh (in CRM-M-22013-2020) being a public servant is not expected to behave in the manner as alleged by the prosecution.

Petitioner- Mool Chand (in CRM-M-22212 of 2020) alleged that he was a Panchayat Secretary at the relevant time when resolution dated 10.03.2017 was passed. Neeru Yadav has alleged that in the resolution dated 10.03.2017 though her presence was shown in column no.2 at Serial No.6, but she did not sign the proceedings along with other Panches. Once she was not signatory to the resolution, therefore, question of her forging signature does not arise.

Allegations are that the Sarpanch by appending fake signature of Panches prepared original document and submitted the same to Excise and Taxation Department for opening liquor vend.

An inquiry was conducted against the Sarpanch vide

memo No.1822/Steno/CTM dated 26.05.2020. Panches along with Neeru Yadav totaling 12 in number were shown as complainants.

The issue in respect of alleged forgery of signatures by the Sarpanch was enquired into and it was found that the name of Neeru Yadav at Serial No.2 along with other complainants at Serial No.3,4,5,8,9 and 11 did not appear in the proceeding register, therefore, question of forging the signatures of these complainants does not arise. The complainant at Serial No.10 had withdrawn her affidavit vide statement dated 15.05.2017. The complainant at Serial No.12 also accepted in his statement before the Enquiry Officer that he had accepted the resolution and signed the proceeding register. On the issue relating to complainants No.6 and 7, Enquiry Officer submitted that he is not an Expert, therefore, issue requires different levels of skills and training. Some other observations were also made.

Learned State counsel with the assistance of learned counsel for the complainant pointed out that it is correct that Neeru Yadav has not signed the resolution dated 10.03.2017, though her name appeared in column No.2 at Serial No.6, but the petitioner in connivance with Sarpanch forwarded the aforesaid resolution to the concerned Department for opening the liquor vend.

In this connection, Jagat Singh- Sarpanch along with other eight Panches are alleged to have signed the resolution. Name of Neeru Yadav appeared at Serial No.7. Out of total 14 Panches in the village, atleast 08 Panches are required for forwarding the resolution to the authority. Despite the fact that Neeru Yadav did not sign the resolution dated 10.03.2017, her name was forwarded at Serial No.7 to show that she had already signed the resolution. This communication was signed by the petitioner and the Sarpanch who is still at large.

Conduct of the petitioner(s) would be scrutinized and for that their police custody is required. It is a case of embezzlement by public servant, therefore, no indulgence can be granted for grant of anticipatory bail.

Dismissed.

September 01, 2020

Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No