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

**CRM-M-9617-2021 (O&M)**
**Reserved on: 08.09.2021**
**Date of decision: 13.09.2021**

**Anoop Yadav ...Petitioner**

**Versus**

**Central Bureau of Investigation ...Respondent**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. D. Ray Choudhary, Senior Advocate with
Mr. Suneel Sharma, Advocate
for the petitioner.

Mr. Rajeev Anand, Advocate
for the respondent-CBI.

(Through Video Conferencing)

**ARVIND SINGH SANGWAN, J.** *(Oral)*

This is a petition filed under Section 482 Cr.P.C. for quashing of the case bearing of the CBI verification Report dated 06.03.2018 in FIR No.RCCHG2018A0007 dated 06.03.2018 under Sections 7, 13(1) (d) read with Section 13(2) of the Prevention of Corruption Act, 1988, registered at Police Station CBI, ACB, Chandigarh and the subsequent investigation carried out by the CBI on the basis of such FIR including the quashing of sanction of charge dated 21.06.2019 and the proceedings initiated by the Special Judge, CBI, Haryana at Panchkula and taking cognizance of the offence.

Brief facts of the case are that one Ram Avtar Singla has given a complaint to the Superintendent of Police, CBI, ACB, Chandigarh for taking action against Anup Singh, Inspector, Income Tax (Audit), Gurugram, for demanding illegal gratification/bribe of Rs.1,00,000/-. It was stated in the complainant that the son of the complainant namely Aman Singla is having a petrol pump in the name of M/s HP Aman Filing Station at Village Atrena, Shamshabad District Nuh (Mewat), Haryana and his advocate namely Ved Bhanu Arya told him that Anup Singh, who sits on the 8th Floor of the Income Tax Office, Gurugram has called him and therefore, complainant along with his son met Anup Singh at his office. During the conversation regarding the assessment of income of financial year 2013-14 of the petrol pump, Anup Singh demanded illegal gratification/bribe of Rs.1,00,000/- from the complainant for not levying tax on the additional income of Rs.10,00,000/- of the aforementioned petrol pump.

The said complaint was attached with the transcription of the alleged recording and was submitted to the CBI.

Thereafter, CBI took action on the complaint and laid a trap in which, the complainant gave Rs.1,00,000/- to the petitioner and CBI recovered the same from the petitioner and thereafter, by following the procedure, the present FIR was registered.

CBI, thereafter, completed the investigation and submitted the report under Section 173 Cr.P.C.

The trial Court, vide order dated 13.09.2019 framed charges against the petitioner and the operative part of the charges reads as under:

> *"Heard on charge. Investigation was carried out by the CBI in this case. The statement of witnesses and documents collected by the CBI in this case prima facie reveal that accused accused Anoop Yadav, while working as Income Tax Inspector, O/o I.T.O. (TDS), Gurgaon, being public servant, demanded and agreed to accept*

> *illegal gratification/bribe of Rs.1,00,000/- from complainant Ram Avtar Singla on 26.02.2018, 05.03.2018 and then on 06.03.2018 as a motive/reward to avoid imposition of additional income tax of Rs.10 lacs on his son Aman Singla, Prop. of M/s HP Aman Filing Station. A trap was laid by the CBI. Pre trap proceeding and post trap proceeding reveal that amount of Rs.1 lac was paid by the complainant to the accused on his demand and the said amount of Rs.1 lacs was allegedly recovered soon after it was given by the complainant to the accused on his demand. Sanction to prosecute the accused was received by the prosecution. Thus, from the aforesaid facts, a prima facie case for commission of offences under Section 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, is made out against the accused. Let the charges be framed against accused Anoop Yadav accordingly."*

Learned Senior counsel for the petitioner submits that the petitioner joined as a Income Tax Inspector (ITI) in 2012 in the office of Commissioner of Income Tax-1, Jalandhar and was transferred to the post of Income Tax Inspector in the O/o Commissioner of Income Tax (Central), Gurugram and lastly transferred to O/o Addl. Commissioner of Income Tax (TDS), Gurugram.

Learned Senior counsel further submits that the complainant namely Ram Avtar Singla is a habitual litigant and acts as a stock witness of the Anti Corruption Bureau, has given a complaint against the petitioner upon which, a raid was conducted and the petitioner was apprehended and the said complaint was disbelieved in one of the cases as per the judgment of ASJ, Gurugram dated 30.04.2015.

Learned Senior counsel for the petitioner has prayed for quashing of the FIR on the ground that the petitioner has no concern with the complaint given by Ram Avtar Singla as in the recorded conversation dated 26.02.2018, Ram Avtar Singla is referring to one Anup Singh, whereas, the petitioner is Anoop Yadav.

Learned Senior counsel for the petitioner further submits that the conspiracy of the complainant as a stock witness with the Investigating Officer is clear as the trap money was arranged by the complainant and no proper procedure was followed regarding recovery of the currency and the manner in which, the hands of the petitioner was washed in presence of other officials with a chemical substance is also not in accordance with the standard procedure.

Learned Senior counsel for the petitioner further submits that the sanction to prosecution has been obtained after arresting the petitioner and the same is without jurisdiction and in the statement of one of the witness, it has come that the draft sanction was prepared by the CBI and therefore, the same is defective, therefore, the sanction letter dated 21.06.2019 vide which, the Commissioner of Income Tax has accorded sanction of prosecution of the petitioner is illegal and liable to be set aside.

Learned Senior counsel for the petitioner further submits that even the order framing charges against the petitioner on 13.09.2019 by the Special Judge (CBI), Haryana at Panchkula, is liable to be set aside as the defence of the petitioner has not been considered.

In reply, Mr. Rajeev Anand, Advocate for the respondent-CBI has opposed the prayer on the ground that the petitioner is seeking quashing of the FIR on the basis of the statement/defence evidence, which are yet to be proved during the course of the trial.

Learned counsel for the respondent-CBI further submits that the sanction for prosecution was granted by the competent authority on the application given by the CBI along with all the material documents and by applying mind, the same has been accorded, and therefore, there is no illegality in the sanction granted by the competent authority.

Learned counsel for the respondent-CBI further submits that the case is now fixed for recording the prosecution evidence and the petitioner can raise all the pleas and defences and put up his case to the prosecution witnesses in cross-examination.

It is lastly argued by learned counsel for the respondent-CBI that the petitioner is praying for quashing of the FIR on the basis of the defence evidence, which cannot be appreciated in a petition filed under Section 482 Cr.P.C.

After hearing learned counsel for the parties and considering the fact that the petitioner is praying for quashing of the FIR on the basis of appreciation of defence evidence, and involves disputed question of facts and therefore, I find that none of the ground raised by the petitioner meet the criteria laid by the Hon'ble Supreme Court in ***State of Haryana and Others versus Ch. Bhajan Lal and others reported as 1991 (1) RCR (Criminal) 383 (SC).***

Accordingly, this petition is dismissed.

**(ARVIND SINGH SANGWAN)**
**JUDGE**

13.09.2021
**Chetan Thakur**

*Whether speaking/reasoned* *Yes/No*
*Whether reportable* *Yes/No*