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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-M-25759-2021  
Date of Decision: 03.12.2021

ROOPDARSHAN PANDEY

..... Petitioner

Versus

STATE OF HARYANA AND OTHERS

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH**

Present: Petitioner in person.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Puneet Bali, Sr. Advocate with  
Mr. Vibhav Narang, Advocate for respondents No.2 to 4.

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**AMOL RATTAN SINGH, J. (Oral)**

Pursuant to the order of this court dated 22.11.2021, an affidavit of Sh. Maksood Ahmed, DCP, East Gurugram, dated 02.12.2021, has been filed, which is ordered to be taken on record.

As per the said affidavit, the DCP states that he has personally seen the contents of the *challan* (report under Section 173 of the Cr.P.C.) as has been submitted to the trial Court in the context of the FIR in question; with it further stated in the affidavit that the documents mentioned at page Nos.77, 78, 79, 80, 93 and 130 of the affidavit of the ACP (dated 16.11.2021), are in fact not a part of the *challan* but are a part of the police file and, (i) comprise communications between the investigating officer and the banks concerned; (ii) the complete set of documents obtained, i.e. Bank

statements of the petitioner's company. It is further stated that complete transaction details of such bank accounts were actually made a part of the report under section 173 (as are at pages 99 to 118 of the affidavit of the ACP dated 16.11.2021).

It has next been stated by the DCP that a letter dated 24.12.2013, written to the State Bank of India seeking information about certain cheques deposited in its branch as well as regarding the seal of the bank on the *challans*, and a reply thereto by the State Bank of India (dated 01.01.2014), are again not a part of the report submitted under Section 173 Cr.P.C. but a part of the police file, with the statement made under Section 161 Cr.P.C by the Manager of the State Bank of India in respect of a photocopy of the certificate of credit being handed over to the investigating officer, also not being a part of the report under Section 173 Cr.P.C. but a part of the police file.

The DCP has stated that the affidavit filed by the ACP Sadar, Gurugram, on 16.11.2021, was prepared on the basis of the police file and “the mistake was inadvertent and *bona fide*” (as regards the ACP stating that they were part of the *challan* submitted).

The petitioner however submits that with the documents, as allegedly form the basis of the allegations against him, as contained in the FIR, not even forming a part of the report under Section 173 Cr.P.C., there would be no *prima facie* case made out against him and consequently this petition deserves to be allowed and the FIR in question quashed.

Mr. Puneet Bali, learned Senior counsel appearing for the complainant, on the other hand submits that the complainant company being at the receiving end of the petitioners' (alleged) conduct with regard to

State Bank of India, the complainant company is aggrieved of the fact that though the petitioner's company (as a contractor of the complainant company) was showing certain payments having been made to employees in their EPF accounts, such payments were actually found to have not been made. Consequently the EPF returns filed by the complainant company would be found to be differing from those filed by the petitioner's company, and hence the FIR was lodged on absolutely valid grounds and therefore does not deserve to be quashed.

He next submits that the documents as have not been submitted by the police but necessarily should have been submitted (as contended on behalf of the complainant company), must now be made a part of a supplementary *challan* under Section 173 Cr.P.C.

Having considered the matter, firstly of course it is to be observed that as regards Mr. Bali's last contention on the aforesaid documents (or any other documents etc.) to be made a part of a supplementary *challan* to be submitted, this Court would have nothing to say in this petition, which is not one filed by the complainant company seeking any fair investigation etc. but is one filed by the petitioner (accused) seeking quashing of the FIR.

Hence, as regards that contention no further observation is made by this Court, leaving it to the investigating agency/prosecution/complainant to take their remedies before the trial Court; and if absolutely necessary then before this Court in appropriate proceedings, which would be considered entirely on their own merits.

Coming back to the present petition filed by the petitioner seeking quashing of the FIR, in my opinion simply because the

investigating agency may not have made certain documents which perhaps should have been annexed with the *challan* (with however no comment made with regard thereto by this court), that would not be ground enough for quashing the FIR, in view of the allegations made against the petitioner, with the appropriate remedy obviously being with the trial court to consider the case against the petitioner wholly on the basis of the merits of the evidence led before that Court.

Therefore, in my opinion this is not an appropriate case where this court should interfere in the matter while exercising jurisdiction under Section 482 of Cr.P.C., to quash the FIR in question. Consequently this petition is dismissed.

However, all observations made by this Court in the present order or any order earlier passed, would be taken to observations only in the context of a petition seeking quashing of the FIR in question; and the trial Court, as already observed above, would proceed wholly on the basis of evidence led before it.

**03.12.2021***Sunil Devi***(AMOL RATTAN SINGH)  
JUDGE**

1. Whether speaking/reasoned: Yes
2. Whether reportable: Yes