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

CRM-M-36831-2020

Date of decision : 06.12.2021

Joginder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Nayandeep Rana, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for transfer of investigation in FIR No.63 dated 17.02.2020 registered under Sections 420/406/120-B/34 of the Indian Penal Code, 1860 at Police Station Dharuhera, District Rewari to some independent agency or to a SIT constituting of police officials of higher and impeccable integrity and for issuance of direction to the official respondents for addition of certain more offences in the abovesaid FIR.

Learned State Counsel has pointed out that in the present case, challan has already been presented.

This Court while dismissing the petition bearing CRM-M-33202-2020 for cancellation of anticipatory bail granted to the petitioner,

had observed as under:-

“Prayer in the present petition filed under Section 439 (2) of Cr.P.C. read with Section 482 of Cr.P.C. is for cancellation of pre-arrest bail granted to respondent Nos.3 to 5 vide order dated 01.10.2020 (Annexure P-11) by the Sessions Judge, Rewari in FIR No.63 dated 17.02.2020 registered under Sections 420, 406, 120-B and 34 of the Indian Penal Code, 1860, at Police Station Dharuhera, District Rewari (Annexure P-2).

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It has been observed in the impugned order that the two purchase orders dated 17.10.2019, which were placed on behalf of the accused-company had been cancelled on learning of the actual impact of the Order passed by the NCLT, Mumbai and no goods were ever supplied to the accused persons by the complainant party on the basis of the above two orders. The said fact is not disputed before this Court. It is further observed in the impugned Order that all documents relating to the case are in the office of the accused-company which is now under the control of the IRP. It was also observed that the custodial interrogation is not required because the entire case is based upon documentary evidence. Conditions with respect to furnishing of bonds to the satisfaction of the Investigating Officer and not to leave the country without prior permission of the Court and other conditions have also been imposed. The Sessions Judge, Rewari has referred to the facts of the case as well as, arguments raised by both sides and has granted anticipatory bail by a reasoned order. This Court finds that there is no circumstance much less, strong or overwhelming circumstance to set aside the impugned Order.

It is further observed that with respect to every argument raised/allegation made by the Learned Senior

Counsel for the Petitioner, there is a plausible argument/defence put forth by the Learned Senior Counsel for the Respondent No. 3 to 5. With respect to the argument on behalf of the Petitioner that the two purchase orders were given on 17.10.2019, i.e. after the passing of the Order dated 24.09.2019, it has been argued on behalf of the Respondent no 3 to 5 that admittedly, no goods were received in pursuance of the same and the said orders were cancelled after the Order passed by the NCLT, Mumbai was uploaded on the website and the true impact of the same was understood and in case, the accused persons had any fraudulent intention, then they would not have written Letters dated 30.10.2019 and 20.11.2019 informing the complainant-company about the passing of the aforesaid orders.

With respect to the allegation that the goods were also received on 25.09.2019, 27.09.2019 and 03.10.2019, the defense put up is that the same were with respect to purchase orders dated 09.07.2019, 23.08.2019 and 09.09.2019 (Annexure P-3), which were prior to the passing of the Order of the NCLT, Mumbai, the copy of which order was only made available on the website in the second week of October after which no supplies were received. At any rate, the said orders were placed in the name of the accused-company and not in the individual names of the Respondent Nos. 3 to 5 and all the supplies made would be a part of the assets of the accused-company which is under the control and custody of the IRP and regarding which the claim to the tune of Rs.1,85,50,287/-has already been made by the complainant company, as is apparent from Annexure R-3/4, and its name figures at Sr. No.4 in Column No.B which deals with "Operational Creditors". Thus, the said aspect is stated to be a matter of adjudication by the IRP.

With respect to the allegation that the money has not been paid for the sales made and the cheques which have been issued have been dishonoured, the defense raised is that since admittedly the cheques in question were post dated cheques, however, bearing dates subsequent to 24.09.2019 (Annexure P-4), thus, could not have been credited as by the said date the Board of Directors stood suspended and the said fact was brought to the notice of the complainant-party vide letter dated 30.10.2019 and 20.11.2019 (P-6 and P-7 respectively). It is further the defense that the cheques were issued along with the purchase orders which were prior to 24.09.2019 and on the said date the concerned respondent was authorized to issue the same and that since the purchases were made by the Company and not by Respondent nos. 3 to 5 in their personal capacity, thus, the remedy of the complainant-party for recovery of money is against the accused-company and at any rate, for the said purpose apart from the claim before the IRP, even complaints under Section 138 of the Negotiable Instruments Act, 1881, have been filed.

From the above, it is apparent that for every argument/allegation raised, there is a plausible argument/defense put up. This Court does not wish to give an affirmative finding on the same, lest, it would prejudice the case of either of the parties. For the present, suffice it would to say, that the present case is based on documents and has civil tappings and the custodial interrogation of the Respondent Nos. 3 to 5 would not be required and there is no circumstance much less, overwhelming circumstance to interfere with the well-reasoned order passed by the Sessions Judge.”

A perusal of the above observations would show that it was

found that the dispute in question has civil tappings. At any rate, since the challan has been filed, the present case does not raise any issue which would require the matter to be transferred to any independent agency or to SIT after the investigation has already been completed. Moreover, in the present case, no allegations of mala fide have been made against any police officer.

Keeping in view the abovesaid facts and circumstances, the present petition is dismissed.

06.12.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No