

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44525-2021 (O&M)
Date of decision: 26.10.2021

Anil Kumar Nalwa

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Safraraj Anjum Mor, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

Mr. Mohit Nehra, Advocate
for respondent No.6.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of notice under Section 41-A Cr.P.C. issued to the petitioner in relation to FIR No.0386 dated 27.08.2021 under Sections 34, 408 IPC, registered at Police Station Tosham, Bhiwani and for issuance of a direction to respondents No.4 & 5 not to implicate the petitioner in the said FIR with the aid of Section 120-B IPC.

Learned counsel for the petitioner submits that the petitioner is a

practising Lawyer and he was engaged by accused Govind @ Sippu and others to defend them in the aforesaid FIR and now a notice has been given to him under Section 41-A Cr.P.C. to appear before the police and the same is pending.

Learned State counsel, on instructions from ASI Om Parkash and SI Vikas, who are present in the Court, submits that in fact, during the investigation, it was found that father of Govind @ Sippu had given an amount of Rs.1.80 lacs to the petitioner for making payment to the complainant and the same has been withheld by him on the premise that it is his legal fee and clarified the same. It is further submitted that now a complaint has been given by father of Govind @ Sippu, namely Ishwar against the petitioner and the police is going to take action, in accordance with law.

After hearing learned counsel for the parties, I find that in pursuance of the notice under Section 41-A Cr.P.C. issued to the petitioner during investigation of FIR No.386, which is registered against Govind @ Sippu and others by owner of the petrol pump i.e. respondent No.6 Vinod Kumar, alleging that all the accused, who were employed as Salesmen, have committed embezzlement of the amount, the petitioner cannot be investigated with reference to the said FIR, if he has been appointed as counsel by the accused.

Accordingly, this petition is disposed of and the official respondents are directed not to act upon the notice under Section 41-A Cr.P.C. dated 27.09.2021 (Annexure P-1) issued to the petitioner.

However, it will be open for the police to inquire into the complaint given by Ishwar Singh, father of Govind @ Sippu that he has paid

Rs.1.80 lacs to the petitioner for returning the same to complainant Vinod Kumar for effecting some settlement.

It will also be open for the police authorities to take action, in accordance with law.

[ARVIND SINGH SANGWAN]
JUDGE

26.10.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No