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

**CRM-M-565-2021
DECIDED ON: 08.09.2022**

SHISH PAL

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANR.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ojas Bansal, Advocate for
Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioner.

Mr. Parveen Aggarwal, DAG, Haryana.

SANDEEP MOUDGIL, J.

1. The present petition seeks quashing of FIR No.80, dated 17.04.2020, under Sections 7/10 of the Essential Commodities Act, 1955 and Section 409 of the IPC, registered at Police Station Shahzadpur, District Ambala, on the ground that no case is made out against the petitioner on the basis of allegations contained in the FIR.

2. The factual matrix leading to the filing of present petition are that the petitioner is a licence holder for operation of a fair price shop/dealer bearing No. AMB/R/484 in Form B under the Haryana Public Distribution System (Licensing & Control) Order, 2009 (hereinafter referred to as Order, 2009 in short). After the expiry of the above mentioned licence on 31.03.2018, it was renewed by the DFSC, Ambala as per the terms and conditions of the Order, 2009. In April 2020, the premises i.e., Ration Depot of the petitioner was inspected by the DFSC, Ambala and thereafter on 17.04.2020, FIR No. 80,

dated 17.04.2020 under Section 7/10 of the Essential Commodity Act, 1955

and Section 409 IPC was registered against the petitioner, which is sought to be quashed in this petition.

3. Notice of motion was issued on 07.01.2021 by this Court and in pursuance thereof, the State of Haryana has filed its reply dated 15.03.2021, by way of an affidavit of Anil Kumar, HPS, Deputy Superintendent of Police, Naraingarh, according to which the petitioner is the main accused in the embezzlement of Government ration supplied to him for distribution to the Ration Card Holders by preparing false record. The relevant para of preliminary submissions are reproduced herein below:-

“ 3. That as a matter of fact, the case FIR No. 80 dated 17.04.2020 under Section 7/10 of the Essential Commodities Act, 1955 and Section 409 IPC, 1860 registered at P.S. Shahzadpur, District Ambala was registered on the application moved by Sh. Sunil Kumar, Food and Supply Inspector, Shahzadpur against the accused -petitioner vide memo bearing No. IFS- 2020 SPL-1, dated 17.04.2020. The copy of complaint is annexed as Annexure R-1 for kind perusal of this Hon'ble Court. However, it is submitted that the complainant submitted in his complaint that residents of Village-Kakkar Majra had made complaint against Shish Pal (Depot Holder) that complete ration was not being made available by the depot holder in the village and the depot holder was working as per his wish. In this regard, the complainant went to village Kakkar Majra on 17.04.2020 at the spot for the enquiry and examined the physical

stock and found, there were discrepancies in the record of machine as well as the physical stock and certain Irregularities were found in the articles of depot holder. Thereafter, the complainant, vide his office letter memo No. IFS -/629 dated 17.04.2020 (ANNEXURE R-2), requested the higher authority i.e. District Food & Supply Officer, Ambala for taking stern action against the alleged depot holder (accused-petitioner). The District Food & Supply Officer, Ambala vide letter bearing no. ID-2768 dated 17.04.2020 had suspended the supply of ration commodities to the depot holder (accused-petitioner) and as per physical verification at the spot, 565 kgs of Atta in which 300 bags of wheat, 38 LTRS of Mustard Oil and Sugar 4 quintals and 68 kgs were found. However, in the machine of depot holder, Atta was found to be Nil whereas, as per physical verification the depot holder was in possession of 565 kgs of Atta which was not distributed by the depot holder meaning thereby that depot holder had taken out the slips of Atta. Therefore, the depot holder had violated the PDS rules and had embezzled the Govt. ration by making wrong entries in the machine, hence this case.

4. That as a matter of fact, the accused-petitioner is the main accused, who has embezzled the Govt, ration supplied to him for distribution to the ration card holders and he is found involved in the offence in question and

having motive of the petitioner not to distribute the ration to the card holder and the ration was found available in his depot at the time of physical verification of the depot and depot holder had taken out the slips of ration and prepared the false record of ration with the intention of embezzlement of Govt. ration, hence the present petition is liable to be dismissed.

5. That it is submitted that since the accused-petitioner embezzled the Govt. ration by preparing false record, hence the present FIR was rightly registered against accused-petitioner for commission of offence punishable u/s 409 read with section 7-10-55 EC Act and hence keeping in view the gravity of offence and seriousness of allegations against the accused-petitioner, the present petition is liable to be dismissed.”

4. Considering the submissions made by the learned counsel for the parties and the categorical stand taken by the State in its reply dated 15.03.2021 that on examination of the stock physically, discrepancies in the record was found and supply of ratio commodities to the accused-petitioner were suspended considering the fact that on physical verification at the spot, it revealed that wrong entries in the machine have been made violating the PDS Rules and embezzled the Government ration. The fact narrated in the aforesaid reply and also as submitted by Mr. Parveen Aggarwal, DAG, Haryana can also be not lost sight of this Court to the effect that the petitioner is the main accused, who has prepared false and forged record not only cheating with the needy persons entitled for the said ration on the

subsidized rate but have also caused loss to the public exchequer by committing embezzlement of ration from his depot.

5. In the light of discussions made hereinabove and on perusal of the record as available in the case file, the gravity of offence and seriousness of allegations against the petitioner clearly establish that there is prima facie case for commissioning of offence punishable u/s 409 read with section 7-10-55 EC Act, which does not warrant for any interference to quash the FIR before this Court.

6. Hence, the present petition is devoid of merits and is dismissed.

(SANDEEP MOUDGIL)
JUDGE

08.09.2022

Poonam Negi

Whether speaking/reasoned Yes/No

Whether reportable Yes/No