

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

259

CRM-M-12181-2017 (O&M)

Date of decision: 26.07.2022

AMAR CHAND SHARMA

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Vineet Jakhar, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Pawan Girdhar, Advocate and
Mr. Puneet Verma, Advocate
for respondents No.2 to 4.

Ms. Shaveta Sanghi, Advocate and
Mr. Aditya Sanghi, Advocate
for respondents No.6 and 7.

None for respondent No.8.

VINOD S. BHARDWAJ, J. (Oral)

The instant petitioner has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking issuance of directions to respondents No.3 to 5 to register a case against private respondents No.6 to 8 for commission of offence under Sections 120-B, 409, 465, 467, 468, 471 and 477-A of the Indian Penal Code, 1860 and Section 13 of Prevention of Corruption Act, 1983 for which a recommendation had been made vide preliminary enquiry conducted by the Department and the recommendation made by the Under Secretary appended along with the instant petition as Annexures P-9 and P-10.

2. Learned counsel appearing on behalf of the petitioner

contends that once the preliminary enquiry reflected commission of an offence that was ex facie cognizable, an FIR ought to have been registered into the same and that by not getting the FIR registered despite allegation of embezzlement by way of issuance of fake bills having been established, the rule of law has been compromised.

3. Per contra, counsel representing the official respondents as well as the private respondents have submitted that the said recommendation (Annexures P-9 and P-10) was based upon a preliminary enquiry by the concerned Department. However, the competent authority thereafter issued a charge sheet and a regular enquiry was conducted into the said allegations. The inquiry report was submitted to the effect that the charges leveled against the private respondents were not proved. The said regular Departmental inquiry report was accepted by the competent authority and thereafter vide memo No. 801 dated 24.01.2020 appended along with the status report filed by the Sunil Kumar, HPS, Deputy Superintendent of Police, Palwal, an information was furnished to the Station House Officer pointing out that the private respondents were exonerated of the charge leveled against them and as such there is no necessity of registration of criminal case against them. The relevant extract of the said memo No. 801 dated 24.01.2020 sent by the DHBVN, Palwal to the Station House Officer, Camp Palwal is extracted hereinafter below :-

“The present status of enquiry is that the competent authority Under Secretary/HR-II, DHBVN, O/o SE/Admn DHBVN, Hisar vide office order no.107/SE/Admn dated 26.10.2017 (copy enclosed) pertaining to CS No.03/NG/T-1119 dated 04.08.2016 served upon Sh. Shiv Kumar CA. Office order no.

108/SE/Admn dated 26.10.2017 (copy enclosed) pertaining to C/S no. 03/NG/T-1121 dated 04.08.2016 served upon Sh. Jitender Kumar LDC & Office order no. 109/SE/Admn dated 26.10.2017 (copy enclosed) pertaining to C/S no.03/NG/T-1122 dated 04.08.2016 served upon Sh. Pawan Kumar SA has been decided/disposed off through ibid office orders as the enquiry officer exonerated all the official from the allegation in ibid complaint on the basis of facts and finding.”

4. The aforesaid decision or the report of the Regular Departmental enquiry are not a subject matter of challenge. Once the matter has already been examined and a detailed Regular Department Enquiry conducted, it would not be appropriate for this Court to be issue any direction on the strength of a preliminary enquiry and a recommendation made. It will however be open to the petitioner to take recourse to the appropriate remedies available to him in accordance with law to assail the departmental enquiry and/or to impugn the decisions so taken. The record of the departmental enquiry as well as the status report filed by Sunil Kumar, HPS, Deputy Superintendent of Police, Palwal has been handed over today in Court itself.

The instant petition is accordingly dismissed with liberty as aforesaid.

(VINOD S. BHARDWAJ)
JUDGE

JULY 26, 2022

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No