

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

Date of decision : 18.04.2023

Petitioner

V/S

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Mr. Raghav Sharma, Advocate
for the complainant.

ASHOK KUMAR VERMA, J. (ORAL)

3. Brief facts of the case are that the above-said FIR was registered on the basis of a letter received in Police Station Madlauda from BDPO alleging that the inquiry was conducted by XEN Panchayati Raj, Panipat vide which it was found that the petitioner along with other co-accused have committed embezzlement of Rs.21,60,941/- in the various development works. A report dated 30.06.2022 was given to XEN, Panchayati Raj, Panipat in this regard.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case due to political rivalry. The petitioner remained the Sarpanch of village for the term 2016 to 24.02.2021. The petitioner has worked for the welfare of the village and carried out various development works. During inquiry, the petitioner has placed the material that the RO Plant and Solar Plant has been installed on the basis of the PWD (B&R) approved rates and other works have been carried out under the supervision of the SDO of the Panchayati Raj. There were 22 points in an enquiry levelled by the complainant. The Enquiry Officer without calling for the separate report of the concerned department has prima facie found some charge proved against the petitioner. The BDPO in utter violation of Section 53(2) of the Haryana Panchayati Raj Act without passing the order on the basis of the inquiry report, vide order dated 22.08.2022 has directed the petitioner to deposit the entire amount. Learned counsel for the petitioner further submits that it is premature to lodge the FIR during the interregnum of the pending inquiry under the supervision of Head of the concerned department. The allegation of alleged financial irregularity is yet to be determined being subject matter of the proceedings under Section 53(2) of the Haryana Panchayati Raj Act. Therefore, the present petition may be allowed.

6. On the other hand learned State counsel assisted by learned counsel for the complainant has vehemently opposed the present petition on the grounds that the petitioner along with other co-accused

have committed embezzlement of Rs.21,60,941/- in the various development works. The investigation is still going on in the present case. Therefore, the present petition may be dismissed.

7. I have heard learned counsel for the parties and perused the record.

8. Hon'ble Supreme Court in its judgment passed in *Niharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others : 2021 SCC (Online) SC 315* observed that when the investigation by the police is in progress, the Court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law.

9. Keeping in view the facts and circumstances of the case particularly the fact that the investigation is still going on, the present petition being premature is hereby dismissed.

18.04.2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No