

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

**CRM-M-29762-2017 (O&M)
Date of Decision : 19.07.2023**

Megha Gupta

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Shailendra Jain, Sr. Advocate with
Ms. Navneet Kaur, Advocate for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

PANKAJ JAIN, J.

Petitioner is before this Court invoking jurisdiction under Section 482 seeking quashing of FIR No.198 dated 9th of June, 2011, registered for the offences punishable under Sections 419, 420, 467, 468, 471, 120-B IPC, at Police Station Tauru, District Mewat, Haryana and all proceedings subsequent thereto.

2. Reply by way of an affidavit of Jai Parkash, HPS, Deputy Superintendent of Police, Tauru, District Nuh, dated 15th of July, 2023 has been filed on behalf of respondent No.1-State. The same is taken on record.

3. As per the FIR it has been alleged as under :

“From Deputy Commissioner, Mewat Nuh, To Superintendent of Police, Mewat Nuh No.608 Panchayat dated 06.06.2011 Sub. Initiation of Criminal Proceedings. CWP No.2163 of 2011 Maherdin & Ors. Vs. Smt. Medha & Ors. (Copy enclosed) was filed in Hon'ble High Court of Punjab & Haryana praying for

issuance of a writ in the nature of certiorari quashing order (copy enclosed) dated 10.11.2008 passed by the Director Consolidation, Haryana under section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short the Consolidation Act.) By virtue of the said order the Director Consolidation, allowed the exchange of land measuring 120 Kanal 12 Marla owned by one Smt. Medha W /o Sanjay and others with Gram Panchayat land of Sehsola, Tehsil Tauru, District Mewat. The order dated 10.11.2008 was passed by Director Consolidation, Haryana on an application made by Smt. Medha w/o Sanjay and others. The Hon'ble High Court in its order dated 21.04.2011 has quashed the order dated 10.11.2008 was passed by the Director, Consolidation, Haryana. While passing the order the Hon'ble Court has observed that the exchange of land of Gram Panchayat allowed by Director, Consolidation, Haryana under Consolidation Act was clearly arbitrary, unreasonable and for reasons de hors the law that governs such issues. The Hon'ble Court found the order fanciful injudicious, irresponsible and unaccountable. The Hon'ble Court has also made the observations that the said order was not passed by the Director, Consolidation for legal consolidation, as they flow the statue. Based on the affidavit filed on behalf of the Gram Panchayat. The Hon'ble Court has concluded that a fraud has been played on the Gram Panchayat insomuch as no resolution was passed authorizing the Sarpanch or the Panch to give the concession on behalf of the Gram Panchayat before Director, Consolidation to allow exchange of land on the application of Smt. Medha and others. The Hon'ble Court has consciously pointed out that the Director, Consolidation was required or refer to the document which authorized the person representing and appearing on behalf of the Gram Panchayat. By not doing so, the Hon'ble Court further observed, Sh. S.C. Goyal, the then Director, Consolidation enabled the fraud to be played on the Gram Panchayat, resulting in the Gram Panchayat loosing its land. The Hon'ble Court further pointed out that there has not been any Panch by the name of R. Mohammad who allegedly

appeared as Panch before the Director, Consolidation and made statement of .Mohammad by the Director, Consolidation as sufficient reason to pass the impugned order has been found unpalatable by the Hon'ble Court. The Hon'ble Court has also taken note of the fact that Resp. No.1 in CWP No.2162 of 2011 Smt. Medha Gupta was niece of the officer who was then serving as Director Consolidation, Haryana. The Hon'ble Court is of the opinion as Director Consolidation, Haryana, order dated 10.11.2008 the Director, Consolidation did not take the interest of residents of the village of the Gram Panchayat in to consideration. The order has also been found by the Hon'ble Court to be without jurisdiction as the Director, Consolidation had no authority vested by law in him to allow exchange of Gram Panchayat land. While concluding the Hon'ble Court made observation that the facts and circumstances emanating from the record clearly indicated even commission of criminal offences including that of fraud. The Hon'ble Court directed Deputy Commissioner, Meat to enable initiations of criminal proceedings. In view of the directions of the Hon'ble Court the undersigned sought legal opinion from the District Attorney who was opined that offences u/s 419, 420, 467, 468, 471, 120B IPC are made. You are requested to initiate criminal proceedings against the persons against whom observations of criminal offences including that of fraud have been made by the Hon'ble Court in the order.”

4. Thus the gravamen of the allegations against the petitioner is being beneficiary of the alleged fraud committed by the then Director Consolidation Subhash Chander Goyal and the petitioner happens to be related to her.

5. Ld. Senior Counsel has relied upon order dated 23.01.2018 passed in **CRM-M-34579 of 2013** whereby the FIR impugned in the

present petition qua main accused Subhash Chander Goyal who as per the FIR was the main culprit of having committed fraud abusing his official capacity stands quashed. He further submits that the said judgment passed by this Court stands affirmed by Supreme Court in Spcl. Leave to Appeal (Crl) No.3747 of 2018 vide order dated 14.03.2023. He thus submits that once the criminal proceedings qua the main accused stand quashed there can't be any plausible reason to continue the same against the petitioner who is merely alleged to be beneficiary of the alleged fraud.

6. Ld. State Counsel is not in position to dispute the fact that the FIR qua main accused Subhash Chander Goyal stands quashed by this Court and the said order stands affirmed by the Apex Court.

7. I have heard counsel for the parties and have gone through records of the case carefully.

8. This Court while quashing FIR against Subhash Chander Goyal observed as under :

“I have gone through the decision of the Apex Court cited by learned State counsel in the case of **State through SPE & CBI, AP versus M. Krishna Mohan and another**, 2007 (4) R.C.R. (Criminal) 882, in which Apex Court has held thus, in Para 33:

“33. In a case of this nature where departmental proceeding was initiated only as against respondent No.2, the enquiry officer did not have the benefit to consider all the materials which could be brought on record by the Department in the light of the investigation made by a specialized investigating agency, the evidence of experts and deposition of witnesses to show that forgery of document has been committed by forging thumb impression and handwriting, we are of the opinion

that exoneration of respondent No.2 in the departmental proceedings cannot lead to the conclusion that he was not guilty of commission of the offences wherefor he was charged.”

In the case of **Kamal Kishore Prasad versus State of Bihar through CBI**, 2012 (7) R.C.R. (Criminal) 1168, the learned Single Judge of Patna High Court has stated thus, in Para 15:-

“15. In view of ratio laid down by the Hon'ble Apex court in cases noticed above, I find no merit in the submissions of petitioner that a delinquent exonerated in departmental proceeding would be ipso facto entitled to acquittal in criminal prosecution on that basis alone, and the same is accordingly rejected. Issue no.1 is thus decided against petitioner.”

In the case of **Susanta Kumar Dey and others versus Union of India and others**, 2010 (5) R.C.R. (Criminal) 173, the Division Bench of Calcutta High Court has also held that exoneration in departmental proceedings would not ipso facto lead to a judgment of acquittal in criminal trial.

In the case of **State of Bihar versus Dhirendra Prasad Shrivastava**, 2015 (1) R.C.R. (Criminal) 445, the Apex Court in Para 11 has held that the exoneration in the departmental proceedings ipso facto would not result in quashing of the criminal prosecution.

Learned Senior counsel for the petitioner relied on the decision of Apex Court in the case of **P.S. Rajya versus State of Bihar**, (1996) 9 SCC 1. However, in view of Paragraph 11 of the judgment of the Apex Court in State of Bihar versus Dhirendra Prasad Shrivastava's case (supra), the decision in P.S. Rajya's case (supra) would not be in any help of the petitioner. I quote following from Para 11 of judgment of the Apex Court in State of Bihar versus Dhirendra Prasad Shrivastava's case (supra):-

“11. The third principal ground on which the High Court thought it proper to grant relief to the respondents

*accused is that in a departmental proceeding instituted against the respondents on the same charges, the respondents were exonerated. Relying on a decision of this Court in **P.S. Rajya v. State of Bihar, [1996(3) R.C.R. (Criminal) 261: (1996) 9 SCC 1]**, the High Court construed the ratio of the aforesaid decision to mean that in a situation where a departmental proceeding against an accused is launched and the accused is exonerated therein, the criminal proceeding on the same charges must necessarily fail and, therefore, should be interdicted. While relying on P.S. Rajya's case supra, the High Court failed to notice a subsequent decision of this Court in **State v. M. Krishna Mohan, [2007(4) R.C.R. (Criminal) 882 : 2007(6) Recent Apex Judgments (R.A.J.) 96 : (2007) 14 SCC 667]**, where this Court had taken the view that exoneration in a departmental proceeding, ipso facto, would not lead to the acquittal of the accused in the criminal trial. Even otherwise, in a three judge Bench decision of this Court in **State (NCT of Delhi) v. Ajay Kumar Tyagi, [2012(4) R.C.R. (Criminal) 297 : 2012(4) Recent Apex Judgments (R.A.J.) 415 : (2012) 9 SCC 685]**, it has been explained that the decision in P.S. Rajya (supra) must be understood to have been rendered in the facts of the case.....”*

The decisions cited by the learned counsel for the respondents lay down the preposition of law that the exoneration in the departmental inquiry of the same subject matter would not automatically lead to acquittal in a criminal trial or even quashing of the criminal proceedings. There can be no quarrel over the said preposition. However, in the present case, what is significant is that in the same subject matter and the same facts on the basis of which FIR in question has been lodged, there is a judgment of a competent Tribunal with categorical findings that the petitioner did no wrong and had the authority to make order as quoted above by me in respect of the same subject matter. Not

only that, by quoting the decisions of Apex Court in the cases of **Zunjarrao Bhikaji Nagarkar vs. UOI and others** (1999) 7 SCC 409 and **Union of India vs. A.N. Saxena**, (1992) 3 SCC 124 and Punjab and Haryana High Court's Judgments in the cases of **Gayatri Jain versus State of Punjab**, (2005) 2 RCR (Cri) 535 and **Vivek Padam Singh versus State of Haryana and others**, 2008 SCC OnLine P&H 1685, that the quasi-judicial authority is immune from disciplinary proceedings. The said judgment of the Tribunal has become final and conclusive as it was not challenged before the higher Courts. The sanctity attached to a judgment of a Court (C.A.T.) cannot be compared with the institution of or exoneration of delinquent in departmental proceedings. Thus, when the Tribunal has clearly adjudicated about the insulation/protection to the petitioner in terms of various decisions by the Supreme Court quoted in the said judgment of the Tribunal, the petitioner having acted as quasi judicial officer having power under Section 42 of the Act of 1948, cannot be allowed to be prosecuted in the manner that has been done. Neither the police nor the criminal Court can be allowed to sit over the findings recorded by the Tribunal as aforesaid in the same subject matter and adjudicate about the same over and again. There is, therefore, a marked distinction of exoneration of a person in departmental inquiry and the judgment of a competent Tribunal which is headed by a former Judge of the High Court. Allowing the police to investigate and the criminal Court to adjudicate in such a fact situation is not at all warranted as it would shake the public confidence. It is also significant to note that there is no semblance of even minimal evidence except a bald statement that Mrs. Medha Gupta is niece of the petitioner or his relative, nor there is any evidence of mala-fides. Then the land is also said to have been returned by Mrs. Medha Gupta.”

9. The matter went to Supreme Court wherein the order passed by this Court stands affirmed holding as under :

“There is a counter affidavit filed by the respondent way back on 16th March, 2020. Annexure R-1 to the affidavit is an order passed on 15th May, 2017 by the State of Haryana. It is an order issued under the directions of the Hon'ble Governor. The said order records that the Superintendent of Police, Haryana sought sanction to prosecute the respondent in connection with the same FIR No.198 for the alleged offences under Sections 419, 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The order refers to the copy of the Investigation Report dated 9th September, 2016 submitted by the Superintendent of Police. After considering various aspects, the order records that it is not an appropriate case for continuation of criminal proceedings and to grant sanction. Therefore, the order rejects the prayer for grant of sanction to prosecute the respondent. The existence of the order has not been denied by the petitioner by filing any rejoinder affidavit.

We are surprised to note that though the present Special leave Petition was filed in April, 2018, the State Government has not disclosed its own order dated 15th May, 2017 which holds that continuation of criminal proceedings is not appropriate and therefore, declines to grant a sanction to prosecute the respondent.

Hence, this is not a case for interference with the order passed by the High Court by which the criminal proceedings have been quashed. The Special Leave Petition is accordingly dismissed.”

10. In view of above this Court does not find any reason not to grant parity to the petitioner *viz-a-viz* Subhash Chand Goyal. Apart therefrom as per the allegations levelled in the FIR Subhash Chander Goyal is stated to be the main accused and the petitioner is stated to be the

beneficiary being alleged niece of Subhash Chander Goyal. Once it has been held upto Apex Court that there was nothing on record to continue the proceedings against Subhash Chander Goyal-the main accused, the present proceedings against the petitioner cannot be allowed to continue. Resultantly, present petition is allowed. FIR No.198 dated 9th of June, 2011, registered for the offences punishable under Sections 419, 420, 467, 468, 471, 120-B IPC, at Police Station Tauru, District Mewat, Haryana and all proceedings subsequent thereto are hereby quashed qua the petitioner.

July 19, 2023
Dpr

(PANKAJ JAIN)
JUDGE

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