

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-18818-2019(O&M)
Date of decision: 01.02.2023

RAKESH SINGH AND ANOTHER

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : None for the petitioner.

Ms. Aditi Girdhar, AAG Haryana.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 482 CrPC directing the investigating officer to take action and arrest the accused mentioned in FIR No.687 dated 17.07.2017 under Sections 120-B, 406, 420, 467, 468, 471 IPC registered at Police Station Jind City, District Jind.

Notice of motion in this case was issued on 08.05.2019, pursuant to which reply dated 15.01.2020 by way of affidavit of Dharambir Singh, Deputy Superintendent of Police, City Jind, District Jind had been filed. Learned State counsel makes a reference to paras 4, 5 and 6 of the preliminary submissions, which read thus:-

“4. That, the investigation of this case is being carried out by Economic Offences Wing Office of the Superintendent of Police, Jind. During the course of investigation of the case, on 13.10.2017 accused Balwan S/o Sh. Lakhmi resident of village Kandela was arrested in this case. He suffered disclosure statement to the effect that he was serving as Accountant in M/s Friends Security Service and account of the firms were being maintained by him and he and his son namely Harish

Kumar-co-accused in collusion with co-accused Sube Singh has withdrawn the amount of EPF of the employees of M/s Friends Security Service. Further on 16.01.2018, co-accused namely Sube Singh S/o Sh. Baru Ram, resident of village Ghoghrian, Distt. Jind was arrested in this case, who suffered disclosure statement that he had got transferred a sum of rupees approximately five lacs of EPF amount of the employees of M/s Friends Security Service by preparing forged documents and further got remitted this amount in various accounts of various persons of the same name of his village/ neighbouring villages with the saying them that he is getting transfer this amount for evading tax and withdrawn the same from their bank account. He further deposed that the amount of subscription of EPF/ESI was got deposited in the office of Employee Provident Fund at Rohtak against the name of the employee without giving their parentage and full address in the subscription list of employees. On the basis of list of employee supplied by accused Harish Kumar, he procured the photocopy of bank pass books and ID of the same names bank account holder of his village and adjoining village and applied for withdrawal of EPF amount of the employees, who had worked in M/s Friends Security Service. The amount of EPF was got remitted in their accounts with the saying that he is getting transfer amount for evading tax and thereafter withdrawn the same. Further, on 19.01.2018, on the basis of evidence on file section 467,468,471 IPC was also added in this case.

It is further submitted that the whereabouts of the co-accused namely Harish Kumar are not known and his warrant of arrest for 15.02.2018 has been issued by the Chief Judicial Magistrate, Jind. The accused Harish Kumar has filed Criminal Misc. No.M-21557 of 2018 in this Hon'ble Court seeking concession of anticipatory bail which was dismissed as with drawn vide order dated 18.07.2018. But, despite of dismissal of petition u/s 438 Cr.PC. the accused Harish Kumar did not join the investigation of the case and vide order dated 04.12.2018 passed by Chief Judicial Magistrate, Jind, he was declared as proclaimed person. It is further submitted that on 24.01.2019 final investigation report u/s 173(2) Cr.P.C. in respect of accused namely Balwan Singh, Sube Singh and Harish Kumar (as proclaimed person) was prepared to face the trial of case for the offence u/s 409, 420, 467, 468, 471,120-B IPC and 08.02.2019 the same was presented in the concerned court for adjudication.

5. That, thereafter, vide Superintendent of Police, Jind order No. 10202-18 dated 02.03.2019 further investigation of the case was transferred from Economic Offences Wing Office of the Superintendent of Police, Jind to Incharge, CIA Jind. Further investigation of this case was conducted by Sub Inspector Karan Singh, SI Sumer Singh and SI Rajinder Singh

of CIA Jind. During the course of investigation of the case it has been found that four persons out of 59 persons in whose account the accused had got transferred the amount of Employee Provident Fund, had already expired and remaining 55 persons were joined in the investigation of the case on different dates in between 08.04.2019 to 14.12.2019. During the course of investigation of the case no incriminatory evidence came against these 59 persons (55 + 4 expired) and they were found innocent. Fair and impartial investigation of the case has been conducted. Further on 09.01.2020 final investigation report u/s 173(8) Cr.P.C. has been prepared and on 10.01.2020 the same was submitted in the concerned court. It is further submitted that on 12.07.2019 the learned trial court has already framed charges in respect of aforementioned accused. There are 33 prosecution witnesses in this case and now the case is fixed on 26.03.2020 for prosecution evidence.

6. That Ajay Kumar-petitioner No.2 and accused Harish are close relatives i.e. brother- in- law (Sala- Behanoi). The accused Harish Kumar, who had been declared as Proclaimed Offender in this case, has filed Criminal Misc. No. M-44762 of 2019 for quashing of proclamation order which is fixed for hearing on 25.02.2020. It is, therefore, humbly prayed to this Hon'ble Court that both the petitions may kindly be clubbed and heard together. Hence, in view of the facts and circumstances explained above, the present petition is liable to be dismissed, being devoid of merits."

She further submits on instructions from ASI Rajbir Singh that supplementary challan has also been filed against accused Harish, who was declared proclaimed offender previously on 09.08.2021 and that charges have also been framed against accused.

In view of the above, no further orders are required to be passed.

Petition is disposed of as having been rendered infructuous.

(AMAN CHAUDHARY)
JUDGE

February 01, 2023

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>