

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

CRR-1455-2022 (O&M)
Date of Decision:- 2.2.2023

Jang Bahadur Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Gulzar Mohammad, Advocate for the petitioner.

Ms. Swati Batra, DAG, Punjab.

GURVINDER SINGH GILL, J.

1. This revision petition is directed against order dated 2.5.2022 passed by learned Special Judge, Fatehgarh Sahib vide which the trial Court has ordered for framing charges for offences under Sections 7 and 13(2) of the Prevention of Corruption Act against the accused.
2. A few facts necessary to notice for disposal of this petition are that FIR No.1 dated 8.2.2017, Police Station State Vigilance Bureau, District Patiala was lodged at the instance of Rohit Kumar wherein it is alleged that he had been working as a Contractor for supply of electric goods and had been allotted a contract for supply of electric goods to Nagar Panchayat, Khamano, District Fatehgarh Sahib worth Rs. 2,06,000/-. The goods to be supplied were to be of brand – Crompton and were accordingly delivered by him to the office of

Nagar Panchayat, Khamano on 2nd January. The Accounts Clerk namely Mukesh Kumar and J.E. Jang Bahadur Singh raised a demand to the extent of 19% of the bill amount of Rs. 2,06,000/- for the purpose of passing the bill. Upon request made by the complainant, the said amount was reduced from 19% to 16% and he was asked to pay an amount of Rs. 32,000/- for clearing his bill. It is further alleged that Rajinder Kumar, Store Clerk, who was also present there demanded an additional amount of Rs. 2,000/- to be paid to him. The complainant recorded audio-conversation with Accounts Clerk - Mukesh Kumar and J.E. - Jang Bahadur Singh on 31st January, which also included some conversation with Executive Officer, Nagar Panchayat, Khamano. Since the complainant did not wish to pay the amount, he reported the matter to Vigilance Bureau. A trap was accordingly laid and Mukesh Kumar was caught red handed while accepting an amount of Rs.32,000/- from the complainant. Co-accused Rajinder Kumar was also caught red handed, having accepted an amount of Rs.2,000/- from the complainant.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that neither he was ever found at the spot nor he had ever demanded or accepted any amount so as to establish his involvement. It has been submitted that since cheque No. 000063 dated 8.2.2017 for an amount of Rs. 2,03,907/- was already issued and was infact presented by the complainant to Shri K.D. Sharma, D.S.P., therefore, there was no occasion for the complainant to have paid the amount to the accused. It has further been submitted that the impugned order dated 2.5.2022 vide which charges have been ordered to be framed is also absolutely non-speaking and as such, deserves to be set aside. The learned

counsel for the petitioner has also argued that it is a case where sanction had initially been refused vide resolution dated 24.7.2019 of the Nagar Panchayat, Khamano and that as such, there was no occasion to have reviewed the said decision subsequently and thus, in the absence of a valid sanction, the trial Court could not have taken cognizance.

4. Opposing the petition, the learned State counsel has submitted that since the petitioner is specifically named in the FIR and there are specific allegations that he alongwith co-accused Mukesh Kumar had demanded bribe from the complainant to the extent of Rs.32,000/- for the purpose of clearing the bill submitted by the complainant pertaining to supply of electric goods and as a matter of fact the co-accused Mukesh Kumar was caught red handed by the police while accepting Rs. 32,000/- from the complainant, the complicity of the petitioner is clearly evident. It has further been submitted that even the audio-conversation between the complainant and accused, as recorded by the complainant, would also inculcate the petitioner and would show that he was fully involved in the matter of demanding and accepting the bribe.
5. This Court has considered the rival submissions.
6. It is no doubt correct that the petitioner was not caught red handed at the spot and it is only co-accused Mukesh Kumar, who was caught red handed while in possession of tainted currency notes of Rs. 32,000/- and even the Store Clerk Rajinder Kumar was found in possession of tainted currency notes of Rs. 2,000/- but the petitioner is specifically named in the FIR and it is the specific case of the complainant that the Accounts Clerk Mukesh Kumar and the petitioner, who is posted as J.E., had raised a demand of Rs.32,000/- for the purpose of clearing the bill submitted by the

complainant. It is the J.E. Jang Bahadur Singh, who would have a more important role to play in the matter of passing the bill though, of course, the Accounts Clerk Mukesh Kumar also processes the matter. Apparently, both J.E. - Jang Bahadur Singh (petitioner) and Accounts Clerk Mukesh Kumar were hands-in-glove for the purpose of extracting illegal gratification. Pursuant to laying of trap, co-accused Mukesh Kumar was caught red handed while accepting bribe amount of Rs. 32,000/- which would *prima facie* establish the allegations against the petitioner regarding his involvement as well.

7. The contention of the petitioner that cheque dated 8.2.2017 had already been issued on the day of trap i.e. on 8.2.2017 would not be of much avail inasmuch as the cheque in question had not been handed over to the complainant by the accused and that it was in lieu of the illegal gratification that the same was to be handed over and was actually handed over on the day when the accused Mukesh Kumar was caught red handed and consequently, the complainant Rohit Kumar, upon collecting the cheque from the accused in lieu of payment of tainted currency notes had further handed over the same to the DSP K.D. Sharma, as case property.
8. As far as the contention of the petitioner regarding the sanction having previously been declined by Nagar Panchayat, Khamano is concerned, the said fact is certainly not in dispute and the resolution pursuant to meeting held on 24.7.2019 is annexed as Annexure P-4. However, it needs to be noticed that when the said matter was considered by Nagar Panchayat, the report of CFSL pertaining to audio-conversation between the complainant and the petitioner was not available and it is only on 26.8.2020 that the FSL (Annexure P-5) came to be available wherein it has been opined that the

audio recording is of the same person who has given voice samples (Jang Bahadur Singh) with high probability. It is, thereafter, when SSP, Vigilance Bureau, Range Roopnagar wrote a letter dated 19.4.2021 (Annexure P-6) to the Director, Local Government that the matter was reconsidered at the level of the Director, Department of Local Government, Punjab, Chandigarh. It was in light of the report of FSL apart from other facts as were already available that sanction was accorded vide order dated 17.8.2021 (Annexure P-7) so as to prosecute the petitioner Jang Bahadur Singh, J.E. As such, review of earlier order by a higher authority i.e. by Director and that too in light of additional evidence cannot be said to be suffering from any infirmity. The contention in this regard, as raised, cannot be accepted.

9. Still further, the audio-conversation, the transcript of which has been annexed as Annexure P-3, also shows that the petitioner was very much part and parcel in demand of bribe which was actually paid by the complainant and recovered from co-accused. In these circumstances, there is sufficient material to presume that the accused had committed the offences alleged against him. Consequently, this Court does not find any infirmity in framing of charges against the petitioner. The impugned order dated 2.5.2022 does not suffer from any infirmity and is upheld.
10. The petition is sans merit and is hereby dismissed.
11. Before parting with this order, this Court cannot help observing that the charges, as framed as per charge-sheet dated 2.5.2022, which is annexed with the impugned order suffer from some infirmities which better be cured at the earliest. First of all, the amount, as accepted by Jang Bahadur i.e. Rs. 32,000/- and as accepted by co-accused Mukesh Kumar, Accounts Clerk i.e.

Rs. 2,000/- has been mentioned collectively as Rs. 34,000/- whereas the same is stated to have been recovered separately. This Court also finds that the first charge nowhere states regarding the demand having been raised by the accused. Still further, in the second charge framed in respect of offence under Section 13(2) of the Prevention of Corruption Act, the trial Court has mentioned that the accused had committed the misconduct in lieu of issuance of tender at cheap rate whereas the said fact is factually incorrect and the accused had agreed to release the payment for illegal gratification and the agreement was not for issuance of any tender at cheap rate. The trial Court to consider alteration of the charges, as deemed appropriate, in terms of provisions of Section 216 Cr.P.C., as the trial is still at its nascent stage.

12. The petition stands disposed off accordingly.

2.2.2023

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No