2023:PHHC: 147495

122(2) IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-40239-2023
Date of decision: 16.11.2023

SUMIT SEHGAL .....PETITIONER

VERSUS

CENTRAL BUREAU OF INVESTIGATION .....RESPONDENT

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vikas Singh, Advocate
for the petitioner.

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MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking quashing of the order dated 22.11.2022 (Annexure P-2) passed by the Learned Special Magistrate, CBI Punjab, SAS Nagar, Mohali, in FIR No. RCCHG2018A0009 dated 18.04.2018 registered at Police Station CBI, SPE, ACB, Chandigarh, wherein the petitioner has been charged under Sections 406, 419, 420, 467, 468, 471, 120-B IPC and order dated 01.04.2023 (Annexure P-3) passed by Special Judge, CBI Punjab, SAS Nagar, Mohali whereby the revision petition against the above mentioned order was dismissed.

2. Learned counsel for the petitioner submits that he has been falsely framed in the case in hand in blatant violation of the settled principles of law; there was no incriminating material collected by the investigating agency, which would even remotely reflect his involvement in the crime in question. Rather, he has been implicated only because he is brother of the prime accused Kamini Sehgal. It has also been submitted that a perusal of the material, which was collected by the investigating agency during investigation and which forms part of the charge-sheet, reveals that neither any mala fides had been attributed to him nor was he a beneficiary of the alleged transaction, in any manner whatsoever. A prayer has, therefore, been

made for setting-aside the impugned orders vide which he has been charged for offences under Sections 406, 419, 420, 467, 468, 471, 120-B IPC.

3. Notice of motion.

4. Ms. Shubhra Singh, Advocate accepts notice on behalf of respondent and has opposed the prayer made by learned counsel for the petitioner. She *inter alia* contends that the petitioner who is not only the brother of co-accused Kamini Sehgal but was also an accountant, had knowingly been delivering and passing on forged challans showing TDS deductions, fabricated by his sister Kamini Sehgal to co-accused Manoj Jain. The petitioner had thus actively aided the co-accused in defrauding the State exchequer by submitting false details and information. Furthermore, it has been contended that the petitioner also withdrew illegal refund amounts from bank accounts including through ATMs. Learned counsel has prayed for dismissal of the instant petition as while framing charges only a *prima-facie* case has to be seen by the Court and there is ample evidence on record against the petitioner, which reflects his complicity in the crime in question.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. As per allegations levelled in the charge-sheet, the sister of the petitioner, i.e., co-accused Kamini Sehgal in connivance with the petitioner and co-accused Manoj Jain orchestrated the crime in question with an aim to defraud the Income Tax Department. The alleged activities of the accused including the petitioner encompassed multiple fraudulent transactions including acquisition of TAN (Tax Deduction Account Number) through fake identification, manipulating TDS/TCS deductions, falsely claiming deductions without actually remitting the correct amounts to the Income Tax Department; the trio allegedly devised a network of fake companies by misusing the PAN Cards of the clients of accused Kamini Sehgal. In addition, some data and documents were also fabricated. Furthermore, as per the

allegations levelled, the petitioner delivered forged documents and personal details of the clients of co-accused Kamini Sehgal**.** Allegedly the petitioner, who was working as an accountant delivered the forged challan to co-accused Manoj Jain for filing the TDS statement of the fake companies formed by them.

7. Consequently, as a result of the alleged illegal actions of the accused, not only did their clients suffer financial losses but even to the State exchequer incurred huge losses. The ramifications of the alleged conspiracy between all the three accused *prima-facie* comes across as being deliberate and of an orchestrated nature, leading to substantial losses for both the State exchequer and affected individuals, as has already been observed.

8. The contention of the learned counsel for the petitioner that there was hardly any incriminating evidence brought forth in the charge-sheet so as to warrant framing of charges is devoid of any merit. A perusal of the final report submitted by the CBI, *prima-facie* reflects the involvement of the petitioner in the crime and his apparent collusion with his sister, co-accused Kamini Sehgal in the crime in question.

9. The primary purpose of framing charges is just to provide the accused a clear comprehension of the accusations brought forth against him in Court along with crucial facts which he would need to address during the trial. The trial itself serves as a platform to test the truthfulness of the case of the prosecution allowing ample opportunity to assess the credibility of the prosecution witnesses through cross-examination of their witnesses. Thus, while framing charges, the role of the trial Court is to ensure, based on the material presented by the investigating agency, whether or not, a *prima facie* case exists against the accused or not. The Court cannot be expected to delve into evaluation of the evidence collected by the investigating agency or to speculate on the likelihood of the prosecution succeeding in securing the conviction of the accused.

10. As a sequal to the above, the instant petition being devoid of any merit stands dismissed.

11. However, nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

16.11.2023 (**MANJARI NEHRU KAUL**)
manoj **JUDGE**

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