

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

**CRM-M-31905-2019 (O&M)
Date of Decision: February 22, 2023**

Vikas Sharma

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Kunal Dawar, Advocate for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

DEEPAK GUPTA, J.(Oral)

CRM-30391-2022

This is an application to implead National Insurance Company Ltd. as respondent No.3.

For the reasons as mentioned in the application, which is duly supported by affidavit of petitioner Vikas Sharma, the National Insurance Company Ltd. is impleaded as respondent No.3.

Application is allowed.

The amended memo of parties is taken on record.

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Prayer in this petition under Section 482 Cr.P.C. is to quash FIR No.13 dated 09.03.2016, registered at Police Station Khilchian, District Amritsar (Annexure P-4), under Sections 304-A and 279 IPC and all the subsequent proceedings emanating therefrom including final report/Challan under Section 173 Cr.P.C. under Sections 304-A, 279, 420, 120-B IPC (Annexure P-5) as well as the order framing of charges dated 26.11.2018 (Annexure P-6); charge-sheet dated 06.02.2019 (Annexure P-7) and subsequent proceedings.

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2. According to the petitioner, he is a Licensed Surveyor, empaneled with various General Insurance Companies, including National Insurance Company Ltd. for the last more than 19 years. On 26.01.2016, M/s Thethi Industries lodged a claim information with the National Insurance Company qua the accidental loss of the vehicle bearing registration No.PB-10-DQ-7289, Swift Dzire Car, insured with National Insurance Company Ltd. It was disclosed in the claim application that vehicle was damaged due to fall of some empty drums from the vehicle going ahead. It was also disclosed in the claim form (Annexure P-1) that at the time of aforesaid accident, Amrik Singh was driving the car, who had not informed the police, so no FIR or DDR was registered. The Insurance Company as per its computerized automated system deputed the petitioner for loss of assessment. There is tie-up between the National Insurance Company and Maruti and so Maruti dealer on receiving the accidental vehicle prepared a thorough estimate and sent the same to the Insurance Company, who then appointed the Surveyor to make the report. On receiving e-mail from the company on 27.01.2016, petitioner inspected the vehicle on 28.01.2016 and submitted his report dated 15.02.2016 (Annexure P-3).

3. Later on, FIR No.13 under Sections 304-A IPC was lodged on 09.03.2016 at Police Station Khilchian, Amritsar Rural, on the complaint of one Arvinder Singh, alleging that his mother Sumitra Devi, while crossing the road had been hit by a vehicle on 23.01.2016, due to which she had died. His mother was cremated on 24.01.2016 without any postmortem examination and that he (complainant of the FIR) had come to know about the involvement of the vehicle PB-10, which was a white

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Swift Dzire car.

4. Petitioner submits that police has implicated him by adding Sections 420 and 120-B IPC on the premise that he conspired with driver Amrik Singh and concealed the facts of accident from the Insurance Company.

5. Contention of the petitioner is that he is working as Surveyor with the Insurance Company and his role was only to assess the loss, as per the submission of the claim form, in which it was clearly mentioned that vehicle was damaged due to the fall of the empty drums. FIR was lodged much later. Even the mother of the complainant, who allegedly died in the accident was cremated without any postmortem examination. Learned Trial Court has been totally misled by the report and has wrongly charge-sheeted the petitioner.

6. Upon notice of motion, respondent No.2-complainant of the FIR-Arvinder Singh, did not appear to contest the petition. In the reply filed on behalf of respondent No.1-State by way of affidavit of Shri Harkrishan Singh, Deputy Superintendent of Police, Baba Bakala Sahib, District Amritsar (Rural), it is submitted that as per the allegations in the FIR, Sumitra Devi (mother of the complainant) was cremated without any postmortem examination due to ignorance of the complainant, who had later on come to know regarding the accident of his mother with Swift Dzire Car and that during investigation, car was traced from Toll Plaza to be bearing registration No.PB-10DQ-7289 and his driver was traced to be Amrik Singh. It is claimed that said driver Amrik Singh in connivance with petitioner Vikas Sharma, Surveyor of the Insurance Company succeeded to secure accident claim against the damages caused

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to his car and that the said Surveyor failed to comply with the basic formalities of the claim and did not even visit the place of occurrence.

Prayer is made for dismissal of the petition.

7. After hearing counsel for both the sides, I find merit in the contention made on behalf of the petitioner. The claim form (Annexure P-1) was submitted by M/s Thethi Industries on 26.01.2016 clearly stating therein that empty drums had fallen from a vehicle going ahead causing damage to the vehicle on 23.01.2016. At the time when this claim form was filed by M/s Thethi Industries, petitioner was nowhere in picture and so, it cannot be stated that he was conspiring with the driver of the vehicle in any manner whatsoever to have sought this false claim by showing wrong cause of accident, because it is on 27.01.2016, when petitioner was asked to conduct the survey of the vehicle at M/s Stan Autos (P) Ltd, Sherpur Chowk, Ludhiana, i.e. the Maruti Workshop. These facts itself are sufficient to rule out any conspiracy of the petitioner with the driver of the vehicle. Had the petitioner been present at the time of filing of the claim by Amrik Singh i.e. driver of M/s Thethi Industries, giving false reasons for damage to the vehicle, it could have been stated that petitioner was involved somewhere in the conspiracy to seek false claim. However, it is not so, as it is the next day after filing the claim that petitioner was asked to survey the vehicle. Simply because the petitioner gave his survey report without visiting the spot, cannot be a reason to infer his conspiracy in the matter.

8. In view of the above said entire discussion, the FIR No.13, dated 09.03.2016, registered at Police Station Khilchian, District Amritsar (Annexure P-4), under Sections 304-A and 279 IPC and all the

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subsequent proceedings emanating therefrom including final report/Challan under Section 173 Cr.P.C. under Sections 304-A, 279, 420, 120-B IPC (Annexure P-5) as well as the order framing of charge dated 26.11.2018 (Annexure P-6); charge-sheet dated 06.02.2019 (Annexure P-7) and subsequent proceedings, are hereby quashed qua the petitioner.

Petition is allowed accordingly.

February 22, 2023
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(DEEPAK GUPTA)
JUDGE

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