

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2483-2023 (O&M)
Date of order: 28.11.2023

Rahul
... Petitioner(s)
Versus
State of Haryana
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Navneet Jindal, Advocate
for the petitioner(s).

Ms. Shubhra Singh, Addl.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
186	9.3.2022	City, Hansi	82, 83 of Registration Act, Sections 120-B, 420, 467, 468, 471 IPC and 13 of the Prevention of Corruption Act, 1988.

Criminal Case no. before trial Court	3 PC dated 15.3.2023
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1. Challenging the order of framing of charges, the petitioner-accused while being posted as Junior Engineer had made wrong assessment, which led to transfer of land, has come up before this Court by filing the present revision petition under Section 397 CrPC.
2. The facts of the case are taken from final report filed under Section 173 CrPC, Annexure P-1 (Colly), as per which, Joint Sub Registrar, Hansi made a complaint to Superintendent of Police, Hansi seeking registration of case against Rakesh Kumar under the Indian Registration Act, 1908 in relation to land measuring 3 kanal 10 marlas which was sold to three different persons. It was alleged that land was divided in three plots and was sold to three different persons. The allegations are that the registration had to take place under Section 82-83 of the Indian Registration Act, which the seller violated. Based on this information, the FIR captioned above was registered and it was referred to the Economic Offences Wing, Hansi. On 28.4.2022, the investigator arrested Rakesh Kumar and subsequently, he was released on regular bail. The investigation revealed that in the year 2005, Rakesh Kumar had purchased the land

for a sum of Rs.3,50,000/- from Prem Kumar and Ram Sharan. According to the registered deed of 2005, the land was situated in Khasra No.1332(03-10), Khatauni No.05. However, the seller Prem Kumar and Ram Sharan had shown a different plot under Mini Model Town, Hansi with the demarcation by walls on all four sides. In fact, the land of Model Town did not belong to Khasra No.1332 but khasra No.1318 and was under illegal possession. The land belonged to Municipal Council, Hansi and was *shamlat Shamshan*, whereas the land which was actually sold as per the registered sale deed was under someone else's occupation for several years. In 2021, Rakesh Kumar conspired with petitioner Rahul and one Sanjay Rohilla and moved the file with Municipal Council, Hansi to obtain House Tax Unit Number of the said property. At that time, they had deposited the aforesaid sale deed and *jamabandi* for the year 2017-18 of khasra No.1332. On 30.4.2021, tax unit No.442/16 was allotted. After that, they deposited previous house tax of Rs.13,500/-. Subsequently, he sold his share of 847 square yards to Narendra, Ashok Kumar and Lavkesh Tuteja vide sale deed dated 16.6.2021. In these sale deeds, house tax unit 442/16 was shown.

3. The investigation further revealed that initially, the land was sold on GPA No.13048 dated 5.4.2003 issued from Pitampura, New Delhi. On 19.7.2022, when the aforementioned GPA was verified from Sub Registrar, Pitampura, Delhi, it was found to be fake. After that, because of involvement of the petitioner-Rahul, he was arraigned as an accused on 30.07.2022 and subsequently, he got bail on 16.8.2022.

4. In the nutshell, the investigation revealed that the main accused Rakesh Kumar hatched a conspiracy in connivance with Rahul (petitioner) and Sanjay Kumar to illegally transfer house No.442/16 with property ID No.16-02-442 which number was already allotted to some other property and they successfully transferred house tax unit No.442/16 with property ID No.16-02-442 to accused Rakesh Kumar and his partner. Subsequently, the property which was sold was belonging to encroached portion of cremation ground which was a *shamlat* land. Thus, the specific allegations against the petitioner are that he connived with co-accused Sanjay Rohilla and Rakesh Kumar and made illegal assessment of record. Based on such assessment report, Sanjay Kumar transferred the aforesaid property house tax unit No.442/16 with property ID No.16-02-442 to Rakesh Kumar. Since the petitioner, J.E., Municipal Council, Hansi and Sanjay Rohilla, Executive Officer, Municipal Council, Hansi were public servants, offence under Section 13 of the Prevention of Corruption Act was invoked on the allegation of converting the *shamlat shamshan* land in the name of Rakesh Kumar and his partners.

5. Petitioner's counsel submits that at that time, the petitioner was working as J.E., Municipal Council, Hansi and was not in possession of the file and was only one of the signatories whereby assessment number was given to the joint land and subsequently,

on verification, it was found that the said number was obtained wrongly and wrong

facts were presented by the seller. He further submits that when the file was submitted in the office and particulars were noted by one clerk, after that physical verification was done by another clerk on 19.4.2021 and the role attributed to the petitioner is that he had measured the said plot and reported it. Referring to paragraph no.4 of the revision petition, he has argued that this fact has been mentioned in various communications and as such, the petitioner had no role in allotment of house tax number. He further submitted that the petitioner was neither the initiator of the said file nor the final authority and his confessional statement had no legal sanctity. It has been further mentioned in paragraph no.4 itself that if any error was committed by the petitioner while on duty, the same has been rectified by removing the said house tax unit number and later, the possession was also taken back. As such, no offence under Section 13 of the Prevention of Corruption Act can be attributed to the petitioner.

6. Petitioner’s next argument is that no action of the petitioner has caused the property to be misused by anyone and the land in question was already encroached upon by different people. Boundary walls and rooms were already in place and now, possession was taken back by cancelling the house tax number and even encroachment was removed and thus, charge under Section 13 of the Prevention of Corruption Act cannot sustain. Once the property has not been misappropriated, there can be no allegation against the petitioner under Section 420 IPC and further, there is no evidence for invocation of Sections 467, 468, 470 IPC against the petitioner.

7. The allegation against the petitioner is of entering into a criminal conspiracy with Rakesh Kumar, whereby the encroached land belonging to cremation ground which was a *shamlat* land, was transferred. Petitioner’s counsel does not dispute that the petitioner, who was posted as Junior Engineer, Municipal Council, Hansi had done physical verification of the property in question. On the face of it, once the Junior Engineer concerned would visit the plot for physical verification, it would be apparent about the situation of a cremation ground. Furthermore, the petitioner’s counsel could not dispute that the petitioner had also put his signatures on the file. The arguments raised on behalf of the petitioner are subject matter of trial. This Court does not find any illegality or error in the order framing of charges and also do not consider it a case for issuance of notice to the State.

8. Accordingly, the present revision petition is dismissed. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

November 28, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No