

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129

CRM-M-5408-2024
Decided on: 05.02.2024

Amit Kumar ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Abhimanu, Advocate for the petitioner.

Mr. Vikram Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
10	14.10.2021	State Vigilance Bureau, District Gurugram	7 of Prevention of corruption (Amendment) Act 2018 and Sections 186, 332, 353, 120-B & 34 IPC

1. Aggrieved by the registration of the FIR, filing of the police report under Section 173 CrPC and consequent framing of charges by the concerned Additional Sessions Judge, Gurugram, the petitioner who is a Junior Engineer in Dakshin Haryana Bijli Vitran Nigam Limited, has come up before this Court, seeking quashing of the above captioned FIR, by filing the present petition under Section 482 CrPC.
2. Perusal of the file shows that even earlier, the petitioner had filed a petition for quashing of FIR and police report and it was registered as CRM-M-62312-2023, however since the charges had been framed on 19.12.2023, as such, the petitioner withdrew the said petition with liberty to challenge the charges. Now the petitioner has challenged the charges dated 19.12.2023 (Annexure P-4).
3. I have heard counsel for the petitioner to ascertain that whether the present petition is worth for issuing notice to the respondents or not. I have also gone through the petition and documents attached as well.
4. Facts of the case are being taken from FIR, which reads as follows:-

“I Mukesh Kumar S/O Rai Singh, is a permanent resident of Rajeev colony, street no. 5. NH 8 near Bharat petrol pump, village Naharpur Rupa. I'm

working as a driver in Haryana roadways depot, my domestic electricity connection account number is 0640941847, in which I have taken 2 KW connection. It was checked by the team of electricity department on 15.09.2021. It was checked by other members of the team along with JE Amit. JE Amit sir told me to meet him in his office. I went to meet him in his office the very next day where he told me that I am being fined Rs. 1,50,000 (Rupees one lakh fifty thousand), on which I requested him to reduce it a little. JE officer told me to talk to his line man Sandeep and Ravindra. After meeting them, they told me that my fine has been reduced to Rs. 80,000 (rupees eighty thousand). I delayed paying it for some days stating that my salary will be credited on 10-12th of the month and then I'll pay the fine accordingly. I was talking to the line man Sandeep for last two days. The talk regarding the bribe was being done on my mobile no. 8851759049 to Sandeep's mobile no. 7988131407 and Ravindra's mobile no. 7357535555, which I've recorded on my phone. On which Sandeep was now demanding Rs. 30000 from me. He told me to give the money to line man Ravindra to close my case. I'm neither in collusion with them nor any of my payment is due. Against him strict legal action should be taken. Petitioners SD Mukesh Kumar S/O Rai Singh permanent resident of Rajeev Colony Naharpur Rupa Gurugram, Mob-8851759049. Legal investigation police - I have given a written complaint to D.I.G., my name was marked from SVB Gurugram. When the complaint was found to be under 7 PC ACT Bir Singh No. 1988/ Faridabad and was given an assurance that case will be filed, and number letter will be notified. Special report should be sent to district magistrate and officer Bala without any delay. Head investigator has prepared and finalised the raiding party where sub inspector Naresh 24/Palwal, sub inspector Randhir Singh No. 5/130, sub inspector Dharamveer 247/Rewari, helper sub inspector Anup Singh No. 5/32 and EHC Udayveer No. 805/Palwal and EHC Kuldeep 2355/Gurugram, government car HR03W-9190 driver constable Rahul No. 573/Mewat and HR03Z-9500 driver FHC Jogendra No. 2361/Faridabad had the investigative bag. Gurugram Office SD VIR SINGH INSP. SVB GGM DT. 14.10.2021 AT 12:30 PM."

5. Perusal of this FIR reveals that complainant-Mukesh Kumar had explicitly mentioned that petitioner-Amit Kumar, Junior Engineer had asked him to visit his office and then he had told him that a fine of Rs.1,50,000/- will be imposed upon him and

when he requested the reduction of fine, then the petitioner told him to talk about this

to his line men Sandeep and Ravindra. In a meeting with these Line men Sandeep and Ravindra, they told him that fine has been reduced to Rs.80,000/- and they demanded Rs.30,000/- as bribe for reducing the same. There was no reason for the petitioner-Amit Kumar Junior Engineer to ask the complainant to meet line men, who had no role to correct the reading. It is neither complainant's version nor the grounds taken in the petition that line men were sent to take meter reading because earlier reading were faulty because intent of petitioner-Amit Kumar to refer the complainant-Mukesh Kumar to line men Sandeep and Ravindra, was to settle a deal for reducing the fine amount and consequently fine was reduced by Rs.70,000/- out of which they wanted cut of Rs.30,000/-.

6. The grounds which petitioner had taken for quashing of the above FIR are mentioned below.

7. That the petitioner has exemplary conduct and he started working as line man in 2007 and worked with honesty and hard work and was promoted to the rank of Junior Engineer in 2012. The petitioner had proved honesty but it is not a ground for quashing of FIR, as such, this ground is not maintainable. Petitioner's next ground is that he was apprehended from his work place on 14.10.2021 by Vigilance Bureau officials who had neither any warrant nor did they disclosed identity and they manhandled him. By making reference to para 4 of the petition, the petitioner further mentions that after such abduction by Vigilance Bureau official, concerned SDO had called the police by dialing 100 number and narrated the incident. Moreover, it was revealed that line men Ravinder had been arrested on corruption charges. Although Ravinder was arrested from the place that has two hours distance from the spot where petitioner was abducted by vigilance officials, as such petitioner's initial detention as well as arrest is illegal. An analysis of this argument also does not make out a case for quashing of FIR. It is for the reason that initially the complainant Mukesh Kumar had informed the Vigilance Bureau about demand of bribe by JE Amit Kumar through Line men Ravinder and Sandeep and subsequently, if the Vigilance Bureau had arrested Ravinder, it would not mean that, petitioner cannot be prosecuted. A reference to the order of framing of charges explicitly points out that charges have also been framed under Section 120B IPC i.e. a criminal conspiracy, as such, this is not a ground for quashing of FIR.

8. The petitioner's next contention is that concerned Court had taken cognizance without their being any prior sanction as such it violates Section 195 CrPC. Perusal of the entire petition reveals that petitioner did not annex the police report filed under Section

an irregularity and is a curable defect and certainly if in the absence of sanction, the benefit if any, would eventually go to the petitioner at the time of conclusion of the trial. Given the fact that petitioner did not annex the police report to substantiate that prosecution was launched without any sanction, this Court cannot presume that a sanction was not obtained. As such FIR cannot be quashed even on this ground.

9. Petitioner’s next ground is that complainant is habitual in making complaints, however this Court cannot presume that even if earlier complaints were false, then automatically even the present complaint would be false. Further the complainant is entitled to plead his case, provided he is cross-examined in this regard during the trial and the accused shall be at liberty to cross-examine complainant-Mukesh Kumar on this aspect during the trial, however this is not a ground for quashing for FIR. Further, no other ground is mentioned in the petition or argued.

10. Given above, this is not a case worth for issuing notice to the respondents and consequently, petition is dismissed with the aforesaid observations. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

05.02.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.