

2024:PHHC:168902



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

CRM M-24516 of 2023
Date of Decision: 18.11.2024

Sukhpreet Singh		...Petitioner
	Versus	
State of Haryana and others		... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Ms. Anita Sharma, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Vaibhav Narang, Advocate
for respondents No. 3 and 4.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the order dated 22.02.2022 passed by the Court of Dr. Mukesh Kumar, Judicial Magistrate 1st Class, Ambala and the order dated 03.01.2023 passed by the Court of Rajan Walia, Additional Sessions Judge, Ambala, whereby, the respondents No. 3 and 4 were ordered to be discharged by both the Courts.
2. The FIR in the present case, i.e., FIR No. 65 dated 20.04.2021 under Sections 120-B, 188, 269, 270 and 420 IPC; Section 3 of Epidemic Disease Act, 1897 and Sections 51 to 60 of National Disaster Management Act, 2005, Police Station Sector 9,

Ambala City was registered on the basis of the complaint submitted by Dr. Vijay Verma and the copy of the same has been reproduced below:-

“From Dr. Vijay Verma, ASMO Dr. Sukhpreet Singh, ASMO Dr. Kaushal Kumar, MO Dr. Kartavy Partap Singh, MO Dr. Kaushal Partap Singh, MO

To SHO, PS, Sector-9

Subject: Regarding Legal Proceedings Against Dr Vasu Dogra, Dogra Path Lab, LLP, Ambala City, Under Section 3 of the Epidemic Act, 1897, Sections 188, 120-B, 269, 270 and 420 of IPC and Sections 51 to 60 of the Disaster Management Act, 2005.

Reference to the subject cited above, order no CS/Amb/2021/1709-11 dated 20th April, 2021 and order No. 1933/MA, dated 20th April, 2021 from the O/O W/DC, Ambala, It is stated that after taking the cognizance regarding the sting operation conducted by Ambala Breaking news in reference to manipulation of reports of COVID patients as per the requirement of the clients, a raiding team as per above mentioned orders of the O/o CS, conducted a raid in the premise of the above said lab. Record, which was supposed to be in the register, was found in loose paper form, which is clearly indicative of malafide intentions of the Lab Owner. Moreover, as shown in the sting operation, the center is providing NEGATIVE reports to the clients as per client's requirement, particularly as evident from the sting operation video, which clearly falls under section 3 of the Epidemic Disease Act, 1897, which states that "Any person disobeying any regulation or order made

under this Act shall be deemed to have committed an offence under Section 188 of the IPC, Sections 120-B, 269, 270 and 420 of IPC, and Sections 51-60 of the Disaster Management Act, 2005. In view of above, and documents confiscated during the raid (Copies Attached), video clip (copy attached) and evoking of the Disaster Management Act, 2005 and the Epidemic Disease Act, 1897, you are requested to kindly do the needful under appropriate Sections of the IPC, My Regards. Sd- Vijay Verma 20.04.2021 Vijay Verma ASMO, DCH Ambala Sd- S. Singh 20.04.2021 Dr. Sukhpreet Singh ASMO, DCH Ambala Sd- Kaushal Dr. Kaushal Kumar MO, Central Jail Sd- K.P. Singh Dr. Kartavy Partap Singh MO, CHC Sahzadpur”.

3. After registration of the FIR, the investigation was conducted by the police and the report under Section 173 Cr.P.C. was presented before the Court of Judicial Magistrate 1st Class, Ambala. Thereafter, the arguments on charge were heard by the trial Court and vide the impugned order dated 22.02.2022, the Court of Dr. Mukesh Kumar, Judicial Magistrate 1st Class, Ambala discharged the respondents No. 3 and 4. Challenging the illegality of the said order, the State of Haryana has filed a Criminal Revision before the Court of Sessions Judge, Ambala and vide the impugned order dated 03.01.2023, the Court of Sh. Rajan Walia, Additional Sessions Judge, Ambala, dismissed the revision petition filed by the State of Haryana. At this stage, it requires mention that neither Dr. Vijay Verma, complainant nor the State of Haryana had preferred any petition

before this Court challenging both the impugned orders. However, surprisingly, the petition has been filed by Dr. Sukhpreet Singh, who was allegedly part of the raiding team, which conducted raid at the clinic/laboratory of respondents No. 3 and 4.

4. Learned counsel for the petitioner vehemently submits that in the present case, the entire record including the pen drive were duly handed over by the team of doctors to the police. However, for the reasons best known, the relevant material was never produced alongwith the challan before the trial Court. Apart from that, both the Courts had discharged the accused, without examination of even a single witness. Still further, the police also did not investigate the case in an appropriate manner as the local police had colluded with the accused and number of *lacunae* were left by the police while conducting the investigation in the present case. However, the petitioner has filed the petition with a view to safeguard the interest of the general public and wanted that the general public should not suffer for this fault on the part of the police authorities. He further contends that even the police had joined hands with respondents No. 3 and 4 and did not conduct the investigation properly. Even, learned counsel for the petitioner has referred to the several documents annexed with the present petition, the proceedings which were conducted after the registration of the FIR and certain other developments as well. However, the police had not taken any of such documentary evidence. Thus, the petitioner, who was also aggrieved by the illegal acts of the

respondents No. 3 and 4, had filed the present petition challenging the discharge of the respondents No. 3 and 4.

5. On the other hand, learned State counsel submits that the State of Haryana had not challenged the impugned judgment dated 03.01.2023 passed by the Court of Additional Sessions Judge, Ambala. Still further, the respondents No. 3 and 4 were rightly challaned by the prosecution and were liable to be prosecuted. However, she admits that the State of Haryana had not challenged the impugned order dated 03.01.2023 passed by the Court of Additional Sessions Judge, Ambala. She also admits that the present petitioner was not authorized to file the instant petition before this Court.

6. On the other hand, learned counsel appearing on behalf of respondents No. 3 and 4 has vehemently argued that the present petitioner has no *locus standi* to file the present petition before this Court. In fact, the FIR in the present case was got registered by Dr. Vijay Verma and against the order of discharge, only the State of Haryana had filed a revision petition before the Court of Sessions Judge, Ambala. After the discharge of respondents No. 2 and 4 by the Court of Judicial Magistrate 1st Class, Ambala, the present petitioner did not file any petition before the Sessions Court. Now, when both the Courts have decided the case in favour of the respondents No.3 and 4, the present petition has been filed by the petitioner only with a view to blackmail them. Learned counsel further contends that even the present petition is not maintainable before this Court, in view of

the provisions of Section 397 Cr.P.C. Still further, the whole case was based on a sting operation allegedly conducted by Ambala Breaking News. However, both the Courts have noticed that alongwith report under Section 173 Cr.P.C., no pen drive was attached and even the APP informed the Court of Judicial Magistrate 1st Class, Ambala, that the pen drive was deposited in the Malkhana. Thus, when the original pen drive of the incident was not available with the Court, no purpose will be served by ordering the prosecution of the respondents No. 3 and 4.

7. I have heard learned counsel for the parties and perused the record carefully.

8. In the present case, vide order dated 22.02.2022, the Court of Judicial Magistrate 1st Class, Ambala, held that the prosecution had failed to establish a *prima facie* case against respondents No. 3 and 4/accused and they were ordered to be discharged. Consequently, a revision petition was filed before the Court of Sessions Judge, Ambala, by State of Haryana, however, the said petition was ordered to be dismissed by the Court of Additional Sessions Judge, Ambala. Thus, the present petition is also not maintainable in view of the provisions contained by Section 397(3) of Cr.P.C. The law is well settled that a second revision petition is not maintainable at the instance of the petitioner in terms of the provisions contained in Section 397(3) Cr.P.C., merely for the reason that the petition is filed under Section 482 Cr.P.C. Thus, no

exceptional ground is made out to entertain the present petition under Section 482 Cr.P.C.

9. Still further, the petitioner has wrongly stated in the petition that the petitioner is one of the complainants in the present case and being aggrieved by the illegal acts of respondents No. 3 and 4 of cheating and forgery of Covid 19 reports and, spread of pandemic in the City, he is competent to file the petition before this Court, challenging the discharge of respondent No. 3 and 4. Still further, in fact, discharge of respondents No. 3 and 4 was challenged by the State of Haryana before the Court of Additional Sessions Judge, Ambala and the petition was ordered to be dismissed. Now, the State of Haryana has not filed any petition before this Court challenging both the impugned orders and the petitioner has wrongly filed the present petition. Simply because the petitioner was also one of the member of the team, which had visited the laboratory/clinic of respondents No. 3 and 4, he cannot be permitted to file the present petition before this Court as he is neither a victim in the present case nor is the complainant in the present case. He was simply a member of the raiding team, which had gone at the spot and had made a statement during the course of investigation. Still further, in the present case, the petitioner is stated to be prosecuted under Section 3 of the Epidemic Diseases Act 1897, Sections 51 to 60 of the Disaster Management Act 2005 and Sections 188, 269, 270, 420 and 120-B of IPC.

10. As per Section 60 of the Disaster Management Act 2005, no Court shall take cognizance of an offence under this Act except on a complaint made by (a) the National Authority, (b) the State Authority, (c) the Central Government, (d) State Government, (e) District Authority or any other authority authorized in this behalf. In the present case, no complaint was filed by the District Authority and the complaint was not filed by the District Disaster Management Authority, which are consisting of a Chairperson, Co-Chairperson and five other members. Still further, even no offence under Section 3 of the Epidemic Diseases Act 1897 was made out against the respondents No. 3 and 4 as the prosecution has failed to explain as to which order had been violated by the accused in the present case. Even, offences under Sections 269 and 270 were also not made out in the facts and circumstances of the present case. No act has been attributed to respondents No. 3 and 4 by which they had spread the pandemic disease. Even, the respondents No. 3 and 4 had not committed any such act from which it could be stated that they had tried to spread the infectious disease. Still further, no offence under Section 420 IPC is made out in the facts and circumstances of the present case as respondents No. 3 and 4 had not cheated anyone nor such allegations were levelled against respondents No. 3 and 4.

11. Even otherwise, both the Courts have discussed the ingredients of the offence in detail and clearly held that the prosecution had failed to make out a *prima facie* case against respondents No. 3 and 4.

Moreover, it is observed that in the present case, the entire prosecution was launched on the basis of a sting operation, allegedly conducted by Ambala Breaking News. However, in the report under Section 173 Cr.P.C., it has been shown that one pen drive was attached, but no pen drive was found by the Court with the report. Even, in spite of directions by the Court, the pen drive was not produced before the authorities. Thus, finding no merits, the present petition is ordered to be dismissed.

18.11.2024

(N.S.SHEKHAWAT)

amit rana

JUDGE

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