

255 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49771-2018
Decided on:-12.02.2024

Gursatinder SinghPetitioner..

vs.

State of Punjab and anotherRespondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Jagdeep Singh Rana, Advocate,
for the petitioner.

Mr. S.P. Singh, AAG, Punjab.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of FIR No.74 dated 20.05.2018 (Annexure P-1) registered under Sections 406 and 420 IPC, at Police Station Fatehgarh Sahib, District Fatehgarh Sahib and all subsequent proceedings arising therefrom. The relevant contents from the FIR are reproduced hereunder:-

“It is written in the contest of the aforementioned subject that a request/letter was given by Davinder Singh s/o Bhupinder Singh, R/o village Jala, Tehsil and District Fatehgarh Sahib in this office and it is further requested that Gursatinder Singh s/o Ajmer Singh was Namberdar of village Jala, Tehsil and District Fatehgarh Sahib and who resigned from his post on 03.05.2008 but he deceived the Government by benefiting in way of taking to the extent of Rs. 18,000/- as well as Rs. 10,500/- for the period of November, 2015 to October, 2016 and November, 2016 to May, 2017 and in this manner has received the salary in a wrong manner. So strict legal action be taken against him. The investigation of this complaint was made to be conducted by the Sub Divisional Magistrate, Fatehgarh Sahib. A report is received by Sub Divisional Magistrate vide letter No. 53/SK, dated 16.02.21018 (Copy annexed herewith), that Gursatinder Singh

was summoned by Tehsildar Fatehgarh Sahib. It was told by him that he has not deceived anyone and he first withdraw the amount deposited to his account, But later he came to know that the same deposited by way of salary for Namberdar in his account by the Tehsildar amount was Fatehgarh Sahib for Namberdari and the same was deposited by him back into in the account of Tehsildar, Fatehgarh Sahib in two installments to the extent of Rs 28,500/- After this a letter was forwarded to this office and was requested that on 03.10.2016 Gursatinder singh has got re-issued his Namberdari I-Card from the office of Tehsildar Fatehgarh Sahib inspite of giving resignation from the same post I the year 2008. So, legal proceedings be conducted against him. The inquiry of the request was conducted by Tehsildar, Fatehgarh Sahib. Report by the Tehsildar, Fatehgarh Sahib vide letter No.318 dated 25.04.2018 (copy enclosed) that Gursatinder Singh was earlier given salary till 30.04 2008 and after this salary for the period of November, 2015 to October, 2016 and November, 2016 to May, 2017 to the extent of Rs. 18,000/- and Rs. 10,500/- respectfully. Furthermore, they reported that Gursatinder Singh in their office on 03.10.2016 made a request by showing the copy of order of his year 2000 appointment to issue an Identity Card. In pursuance of this he was issued an identity card and a salary for the period of November, 2015 to October, 2016 was given. It is pertinent to mention that a request was presented in this court on 05.05.2008 regarding his resignation from the post of Namberdari and which was permitted by this Court by order dated 05.05 2008 and this post was held vacant (copy annexed). Gursatinder Singh after resigning from the post of Namberdar has got issued an identity card and received salary and in this manner has deceived the Government and keeping this in view, legal proceedings be conducted against this persons is recommended by Sd/- Kawal Preet Brar Digital signed District Collector, Fategharh Sahib This request is sent to SSP Fatehgarh Sahib and on the same request Hon'ble SSP Fatehgarh Sahib has written DA(L) to opinion PI Sd/- Alka Meena IPS Superintendent of Police Fatehgarh Sahib”

2. A perusal of relevant portion of the FIR shows that primarily there were two allegations levelled against the petitioner. Firstly, that he received a sum of Rs.18,000/- and Rs.10,500/- against salary for the period November, 2015 to October, 2016 and November 2016 to May, 2017 respectively, though having already submitted his resignation from the post of Namberdar of Village Jala, Tehsil and District Fatehgarh Sahib, way-back on 03.05.2008. Secondly, the petitioner got prepared one fake identity-card

of Namberdar in the year 2016, despite having resigned in the year 2008.

3. Learned counsel for the petitioner submits that as regards the amount deposited in the account of the petitioner, it was a mistake on the part of the revenue authorities and as soon as the petitioner came to know about the said deposit, the same was returned back to the authorities concerned. He further submits that no such identity-card against the post of Namberdar was ever got prepared by the petitioner having misrepresented the official respondents and the said allegation of FIR was not even corroborated during investigation. He also submits that the registration of FIR in question is an act of vindiction at the hands of complainant on account of political rivalry and thus, alleged that the FIR in question cannot stand.

4. On the other hand, learned State counsel opposes the prayer made on behalf of the petitioner while submitting that the petitioner even withdrew the amount deposited by the authorities concerned and it was only when the complainant became active, the same was returned and thus the offence as alleged in the FIR against the petitioner was clearly made out.

As regards the preparation of identity-card, learned State counsel on instructions very fairly submits that no evidence in this regard could be collected during investigation.

5. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

6. A perusal of the correspondence dated 09.04.2018 by the SDM, Fatehgarh Sahib to the office of Deputy Commissioner, Fatehgarh Sahib

(Annexure P-7 at page 22), letter dated 03.01.2018 from the office of Tehsildar, Sh. Fatehgarh Sahib to the office of Sub-Division Officer, Fatehgarh Sahib (Annexure P-8 at page 23) and the correspondence dated 16.02.2018 by the office of Sub-Division Magistrate, Fatehgarh Sahib to the office of Deputy Commissioner, Fatehgarh Sahib, clearly reflects that the official respondents themselves admitted the factum of deposit of the alleged amount of salary in the account of petitioner as an act of bonafide error on the part of their office. It has also been recorded therein that the aforesaid amount was returned and deposited with the Government Treasury by the petitioner on 05.07.2017 and 11.07.2017 in the shape of 18,000/- and Rs.10,500/- respectively. For necessary reference, relevant portion from letter-correspondence dated 03.01.2018 (Annexure P-8) and 09.04.2018 (Annexure P-7) are reproduced hereunder:-

Letter dated 03.01.2018:-

“.....This amount was wrongly deposited in the account of Gursatinder Singh due to non-receiving of any order of resignation of Gursatinder Singh. This is why it is not found correct to proceed with any inquiry in this case. The complaint is liable to be admitted in the office.”

Letter dated 09.04.2018:-

“.....It has been found from the inspection office report that Gursatinder Singh, R/o Village Jala received salary of Rs.18,000/- for November, 2015 to October, 2016 and Rs.10,500/- for the period from November, 2016 to May, 2017 and has received Rs.28,500/- as salary in total. But, after this Gursatinder Singh Jala returned the said amount by depositing in the Government Treasury on 05.07.2017 and 11.07.2017 to the extent of Rs.18,000/- and Rs.10,500/- respectively.”

7. Once the authorities concerned admitted their own bona fide

error in depositing the aforesaid amount in the account of the petitioner and the same having been returned and deposited with the Government Treasury, the FIR in question against the petitioner is an apparent act of abuse of process of law, especially, when no evidence at all is available with the investigating agency that the said deposit in favour of petitioner was made on account of any malafide or misrepresentation attributable to the petitioner. Moreover, no material has been pointed out that any forged identity card was got prepared by the petitioner.

8. Thus, in the given facts and circumstances, the continuation of proceedings arising out of the FIR in question appears to be a futile exercise which would result in the wastage of precious time of the Court. Resultantly, the present petition is allowed and the FIR No.74 dated 20.05.2018 (Annexure P-1) registered under Sections 406 and 420 IPC, at Police Station Fatehgarh Sahib, District Fatehgarh Sahib as well as all subsequent proceedings qua the petitioner are hereby quashed.

12.02.2024
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(HARKESH MANUJA)
JUDGE

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