

**CRM-M-33498-2023 (O&M)****-1-**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-29305-2024 in/and CRM-M-33498-2023
Date of Decision:- 05.08.2024****Ramesh Chand and Another**

...Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Ashish Aggarwal, Senior Advocate with
Mr. Karan Singla, Advocate and
Mr. Bikram Chaudhary, Advocate
for the petitioners.

Ms. Aditi Girdhar, AAG, Haryana.

AMARJOT BHATTI, J.**CRM-29305-2024**

This is an application filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023 for placing on record Final Report under
Section 173 Cr.P.C. as Annexure P-17 and to grant exemption from filing
the certified copy of same.

For the reasons enumerated in application, same is allowed.
Accompanied document Annexure P-17 is taken on record and exemption
from filing certified copy of same is allowed, subject to just exceptions.

CRM stands disposed of.

CRM-M-33498-2023

1. Petitioners Ramesh Chand and Balkar Singh have filed petition
under Section 482 Cr.P.C. for transfer of investigation of FIR No. 520

**CRM-M-33498-2023 (O&M)****-2-**

dated 10.06.2020, under Section 406, 420 (subsequently added 409, 467, 468, 471 and 120-B of IPC), registered at Police Station Thanesar City, Kurukshetra, District Kurukshetra (Annexure P-4) to CBI or to State Vigilance Bureau or any other independent agency or to some Senior Higher Police Official not below the rank of Inspector General of Police since reconstituted Special Investigation Team has prepared cancellation report as mentioned in status report dated 01.05.2023, exonerating official accused Inspector, Food and Supplies, Haryana, which is contrary to earlier investigation carried out by Special Investigation Team with malafide intention and extraneous consideration and to stay the cancellation report submitted by the prosecution or any other direction which the Court may deem fit.

2. As per the facts of case, Ramesh Chand filed written complaint against Hoshiyar Singh, Chanderwati and Authorized Market Committee Kurukshetra alleging that Hoshiyar Singh and Joginder Singh husband of Chanderwati were running Commission Agent shop in the name of M/s Om Parkash Hoshier Singh and M/s Joginder Singh Balbir Singh. Aforesaid accused asked him and his cousin Balkar Singh to open a rice mill in partnership and they could have good income. A Partnership Deed was prepared on 29.01.2018 and to set up a rice mill, loan was raised from bank by transferring 3 acres of land in the name of firm by his uncle Hukam Chand. In the year 2019-2020, 6783 metric ton of paddy was allotted. Accused were responsible for buying grain from market. However, they in connivance with middleman and officials of market committee tampered the record by showing fake bills. A small part of paddy reached

**CRM-M-33498-2023 (O&M)****-3-**

rice mill from grain market Kurukshetra. When complainant came to know about this conspiracy, respectables were collected. Complainant came to know that accused had intention to commit fraud with them. They were allotted 6788 metric ton of paddy from different firms and they took money from Government by showing fake bills and sold the material value worth ₹6,18,39,500/- in open market instead of bringing it to rice mill. They committed fraud regarding 3,370 metric ton of paddy. A Panchayat was convened in the presence of Baldev Singh and Ami Chand. Hoshiyar Singh gave written assurance and handed over five cheques of ₹1,29,00,000/- that in case he was unable to fulfill the quantity of paddy then complainant could use the said cheques. Hoshiyar Singh and Joginder Singh in connivance with officials of Food and Supplies Department obtained their signatures on physical verification of mill, even though 3,370 metric ton of material was found short in mill. Their signatures were obtained on firm's letter pad and blank pages which they might have used for illegal purpose. In this way accused have committed fraud with them and Government. On this complaint, present FIR was registered.

3. Learned counsel for petitioners in support of facts mentioned in FIR produced Partnership Deed dated 29.01.2018, Annexure P-1 in which said firm has got four partners namely Balkar Singh, Ramesh Chand – present petitioners and Chanderwati, Hoshiyar Singh, against whom the complaint was filed. Agreement executed with District Food and Supplies Controller, Kurukshetra dated 01.10.2019 is Annexure P-2. Complaint filed by complainant before Director Food and Supplies, Chandigarh with respect to holding inquiry in embezzlement of paddy is Annexure P-3 and

**CRM-M-33498-2023 (O&M)****-4-**

copy of FIR No. 520 dated 10.06.2020, under Section 406, 420 of IPC, registered at Police Station City Thanesar, Kurukshetra, District Kurukshetra is Annexure P-4. Accused Chanderwati and Hoshiyar Singh applied for anticipatory bail which was declined by learned Additional Sessions Judge, Kurukshetra vide order dated 19.06.2020 and thereafter, they applied for anticipatory bail filing CRM-M No. 16614 of 2020 in which they were granted *interim* protection vide order dated 07.08.2020. On the directions of High Court in anticipatory bail, Special Investigating Team was constituted, headed by Ravinder Tomar, DSP, Kurukshetra. He filed his reply dated 15.07.2020 in anticipatory bail petition, which is Annexure P-5. In said reply, allegations levelled by present petitioners were confirmed. It was further mentioned that during physical verification at rice mill, there was shortage of 3,370 metric ton of paddy which was misappropriated by petitioner. In said bail petition, learned counsel for petitioners referred to additional affidavit dated 27.07.2020, Annexure P-6, other affidavit dated 30.07.2020 filed by DSP Ravinder Tomar, Annexure P-7, where allegations levelled by petitioners were confirmed. Raj Kumar Walia, DSP, Kurukshetra also submitted reply dated 16.12.2020, Annexure P-8. Petitioners also filed counter affidavit dated 15.02.2021, Annexure P-9. It is pointed out that during investigation it was found that Ashwani Kumar, Inspector Food and Supplies Department, Haryana was also involved and filed application for anticipatory bail which was dismissed vide order dated 31.05.2021. He filed anticipatory bail bearing CRM-M No. 22755 of 2021 in which status report was filed by Narender Singh, DSP (City) Kurukshetra, Annexure P-10. Another reply dated 30.07.2021

**CRM-M-33498-2023 (O&M)****-5-**

was filed by Narender Singh, DSP (City), Kurukshetra, which is Annexure P-11. Accused Ashwani Kumar played vital role in commission of offence. He (Narender Singh, DSP (City), Kurukshetra) filed status report dated 03.08.2021, Annexure P-12 and thereafter, another status report was filed dated 10.09.2021, which is Annexure P-13. It was specifically mentioned in said status reports/affidavits that fake documents were prepared and transactions were merely shown in papers. Concerned record was also to be taken in police possession. However, respondent No. 5 Superintendent of Police, Kurukshetra after taking charge in the office, for extraneous consideration constituted Special Investigation Team (SIT) on 12.04.2022 and under the pressure of respondent No. 5, respondent No. 6 prepared cancellation report in present FIR exonerating Ashwani Kumar, Inspector Food and Supplies, Haryana. Petitioners came to know about this cancellation report from status report dated 01.05.2023. There was no cogent reason for exonerating Ashwani Kumar accused. Petitioners were not joined in investigation by reconstituted SIT. It is further transpired that prosecution will submit cancellation report in this FIR and will carry out investigation in FIR No. 589 dated 02.12.2020 lodged by D.F.C.S., Kurukshetra. In this FIR, all four partners are arrayed as accused. This FIR has been registered after a long gap from the registration of present FIR at the instance of petitioners. FIR No. 589 dated 02.12.2020, under Section 409, 420, 120-B of IPC, Annexure P-16, has been registered at Police Station Pehowa. In the light of this, there is requirement for transfer of investigation of FIR No. 520 dated 10.06.2020, under Section 406, 420 (subsequently added 409, 467, 468, 471 and 120-B of IPC), registered at

**CRM-M-33498-2023 (O&M)****-6-**

Police Station City Thanesar, Kurukshetra, District Kurukshetra to CBI or State Vigilance Bureau or to some independent Investigating Agency not below the rank of Inspector General of Police. Hence, the petition.

4. On the other hand, learned counsel representing respondents filed status report. It is pointed out that matter has already been investigated by Special Investigating Team and cancellation report of said FIR has been filed. As per status report, present petitioners got registered FIR No. 520 dated 10.06.2020, under Section 406, 420 (subsequently added 409, 467, 468, 471 and 120-B of IPC), registered at Police Station City Thanesar, Kurukshetra, District Kurukshetra with malafide intention to grab paddy/rice of District Food and Supplies Controller and for causing wrongful loss to Government. After completion of investigation, cancellation report has been submitted. The record of FIR No. 520 of 2020 has been transferred in FIR No. 589 dated 02.12.2020, under Section 409, 420, 120-B of IPC, Police Station Pehowa, District Kurukshetra (Rural). It is further mentioned that in case there is involvement of officials of District Food and Supplies Controller/market committee or any other person, appropriate legal action will be taken against the culprit accordingly. Therefore, there is no need for further investigation of FIR No. 520 dated 10.06.2020, under Section 406, 420 (subsequently added 409, 467, 468, 471 and 120-B of IPC), registered at Police Station City Thanesar, Kurukshetra, District Kurukshetra, as cancellation report has been submitted by police.

5. I have considered the arguments advanced by learned counsel for petitioners, learned counsel representing State and have gone through the

**CRM-M-33498-2023 (O&M)****-7-**

record carefully. Admittedly, on the complaint of Ramesh Chand, FIR No. 520 dated 10.06.2020, under Section 406, 420 (subsequently added 409, 467, 468, 471 and 120-B of IPC) was registered at Police Station City Thanesar, Kurukshetra. Regarding misappropriation of 3,370 metric ton of paddy, value worth ₹6,18,39,500/-. It is not disputed that present petitioners namely Ramesh Chand, Balkar Singh on the one hand and Chanderwati, Hoshiyar Singh are named as accused in aforesaid FIR, who are all partners of M/s Shri Bala Sundri Rice Mill. Copy of Partnership Deed dated 29.01.2018 is Annexure P-1. It is further not disputed that M/s Shri Bala Sundri Rice Mill entered into an agreement with District Food and Supplies Controller, Kurukshetra dated 01.10.2019, which is Annexure P-2. There is alleged misappropriation/embezzlement of paddy allotted to this mill. Now, learned counsel for petitioners has relied upon status report/replies filed by State of Haryana during the pendency of anticipatory bail filed by Hoshiyar Singh and Chanderwati, bearing CRM-M No. 16614 of 2020 as well as replies/status reports filed in anticipatory bail of Ashwani Kumar, Inspector, Food and Supplies Department in CRM-M No. 22755 of 2021. In the said status report, allegedly active role was attributed to Ashwani Kumar, Inspector Food and Supplies Department in the commission of alleged offence. Later on, another Special Investigation Team was constituted who submitted cancellation report in FIR No. 520 dated 10.06.2020, Annexure P-17, which is pending before the concerned Illaqa Magistrate.

Said cancellation report has not been accepted by Judicial Magistrate till date. It has further come in status report that another FIR

**CRM-M-33498-2023 (O&M)****-8-**

No. 589 dated 02.12.2020, under Section 409, 420, 120-B of IPC, Police Station Pehowa, District Kurukshetra (Rural) has been registered on the complaint of Inspector Ashwani Kumar against all the partners of M/s Shri Bala Sundri Rice Mill. As per status report, record collected in FIR No. 520 dated 10.06.2020 is allegedly transferred in FIR No. 589 dated 02.12.2020, which is Annexure P-16. Firstly, till date FIR No. 520 dated 10.06.2020 has not been cancelled by the orders of Judicial Magistrate. Therefore, present petitioners have got every right to file their protest petition, challenging the cancellation report submitted by prosecution. Till then, it is not justified to transfer the record of FIR No. 520 dated 10.06.2020, registered at Police Station City Thanesar, Kurukshetra to another FIR No. 589 dated 02.12.2020, registered at Police Station Pehowa.

6. Considering the aforesaid factual position, at this stage, it is not appropriate to give direction for transfer of investigation of FIR No. 520 dated 10.06.2020 to CBI or State Vigilance Bureau or any other agency. Since, matter is pending before learned Judicial Magistrate regarding cancellation of FIR, present petitioners are well within their rights to file protest petition and contest the said cancellation report.

7. With this observation, present petition is accordingly, disposed of.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

05.08.2024

*lalit***(AMARJOT BHATTI)**
JUDGEWhether speaking/reasoned:
Whether reportable:Yes/No
Yes/No