

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

137

CRM-M-43884-2023 (O&M)
Date of decision : 08.01.2024

Harish

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rajiv Kataria, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed seeking quashing of FIR No.112 dated 17.07.2021, registered for the offences punishable under Sections 420 and 120-B of IPC at Police Station Sadar Panipat.

2. Counsel representing the petitioner submits that the allegation against the petitioner is of having facilitated illegal means to the examinee(s) and none of the successful examinees has been arraigned as an accused and thus no offence with the aid of Section 120-B of cheating as defined under Section 415 can be said to have been made qua the petitioner.

3. As per the contents of the FIR, it was alleged as under:-

“TO, SHO Police Station Sadar Panipat, Today myself SI alongwith HC Balinder 262 HC Lalit 1515, HC Surender 839, EHC Amit Kumar on a government vehicle bearing number HR06AV-0800 driver thereof was Ct. Ashok Kumar 1117 were present at Sector 18 for patrolling and in search of Suspicious persons that secret informer met us and

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told that a test is going on in the lab situated inside Secondary School the Ganda New Modern Senior Naala G.T. Road, Panipat regarding recruitment for Air force Main Recruitment Schedule Test for Intake 1- 2022 and these tests are going on in different labs at Chandigarh, Ambala, Delhi, Jaipur and at other places also and in these tests, four to five candidates are going to give the test with the help of Bluetooth, phones and by way of other means and they are getting the students illegally passed in these tests after taking huge amount from the students after making contacts with the different labs from 12.07.2021 and if the raid is conducted right now, then they could be nabbed. The information being solid and reliable, after relieving the secret informer and after consulting with the fellow officials, myself SI along with fellow officials reached at New Modern Senior Secondary School, Ganda Naala, G.T. Road, Panipat, where four persons were using the phone inside a room in the school, who were caught by myself SI with the help of fellow officials and asked their names turn wise, who had disclosed their names as Dharamveer son of Tejram resident of village Aasan Police Station IMT District Rohtak and other person disclosed his name as Jatender@ Jeetu son of Rajkumar resident of village Gaamda Police Station Narnaud District Hisar and third person had disclosed his name as Amit son of Rampal resident of village Hadaudi Police Station Badhda District Dadri fourth person disclosed his name as Ricky son of Jitendra Singh resident of village Badoda Police Station Badoda District Sonipat and on searching the room by myself SI, fourteen ear Bluetooth Dot and 11 Bluetooth and 4 yellow color Tape and 35 cells to be used in the Bluetooth were

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recovered which were taken into police custody vide separate memo. The accused and witnesses had appended their signatures respectively upon the memo and 2 mobile phones 1 color blue make One Plus and one red color make Samsung Galaxy 21 were recovered from the possession of Amit and one Key Pad Samsung DOUS and one phone OPPO F 17 color blue were recovered from Ricky and one phone POCO color Blue was recovered from Jitendra and one phone VIVO model Ward-73 color Blue was recovered from the possession of Dharambir and when the data of the phones were checked, then a lot of roll number slips of the students and also conversation regarding papers were found from the same and during the investigation, after taking out the data from the phones, it would be attached with the case file. The recovered Bluetooth, Tape, Bluetooth cells and Bluetooth ear DOT were put one cloth parcel and the said parcel was then stamped with stamp lettered N.K. and the stamp after use was handed over to HC Balwinder Singh 262. Because the recovered mobile phones were containing data regarding papers, due to this reason the mobile phones could not be sealed yet because they are necessary for the investigation and the said mobile phones would be sealed after recovering its Data. The accused persons, by illegal taking money from the candidates sitting in the tests for Air Force and after getting them passed illegally under a pre-planned conspiracy and after making the students denied of their rights, have committed offences under section 420, 120-B IPC and the present writing is being sent by hand through HC Surendra 839 to the police station for registration of FIR, and after registering

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the same, its number be got informed and also another investigating officer be sent at the spot. Myself SI is busy in investigation at the spot.”

4. After registration of FIR as per prosecution, accused were arrested. Dharamvir named one Vinod as the conduit who help candidates in using unfair means in exam. After arrest, Vinod suffered disclosure which led to Manudev alias Monu and the present petitioner as the kingpins in facilitating illegal means after taking 02 lakh rupees. The present petitioner further disclosed the name of Manish Jain, owner of the test centre. Challan stands presented. The police report has been filed on record. As per which, the police has presented challan against Jatender @ Jeetu s/o Rajkumar, Riki s/o Jitender, Amit s/o Rampal, Dharambir s/o Tejram, Vinod @ Nafe Singh, Madan @ Rajeram, Sukarampal son of Karanvir Singh, Sonu s/o Santpal, Salvasheesh son of Sajjan Singh, Jaideep s/o Om Singh, Harish @ Pilot-present petitioner s/o Jai Bhagwan, Manish s/o Krishan, Manu Dev @ Monu s/o Sardar Singh. Apart from that there is a recovery made from the petitioner and the investigation agency has also reserved its right to file supplementary challan after getting all the records from the Air Force. In sum and substance, the allegation against the petitioner is that he alongwith other accused conspired together for helping the examinees in using unfair means to clear Air Force recruitment exam in lieu of money. It is not necessary that the candidate must have cleared the exam to constitute offence of cheating.

5. In view of above, argument raised by counsel for the petitioner that merely for the reason that the examinees were not

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beneficiary of the alleged offence, no offence punishable under Section 420 is made out cannot be accepted.

6. As per the settled law while exercising jurisdiction under Section 482 Cr.P.C. when the prayer is for quashing of the criminal proceedings, it is important for the Court to bear in mind distinction between a case where there is a no legal evidence or where there is evidence which is inconsistent with the acquisitions made and a case where there is legal evidence which on appreciation may or may not support the acquisitions. While exercising jurisdiction under Section 482 of the Code, the High Court is not required to go into the question whether the evidence in question is reliable or not or whether on reasonable apprehension of such evidence, acquisition can be sustained or not. This primarily is within the domain of the trial Court. Moreover, the accused who named the petitioner and those who were named by the petitioner in the alleged disclosure, all have been challaned. Allegation involve facilitating illegal means in recruitment exam. Merely for the reason that accused could not clear the exam, allegation regarding use of illegal means cannot be said to have rendered otios. Thus, plea raised by the counsel for the petitioner is misconceived and the same cannot be accepted at this stage.

7. In view of above, the present petition is dismissed.

8. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

08.01.2024

Dinesh

Whether speaking/reasoned
Whether Reportable :

(PANKAJ JAIN)
JUDGE

Yes
No