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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-52839-2023
Date of decision : 15.04.2024

Sham Lal and another Petitioners

versus

State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Atul Yadav, Advocate
for the petitioners.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. By way of present petition filed under Section 482 of the procedural code, petitioners pray for quashing of FIR No.198 dated 09.6.2011, registered for offences punishable under Sections 419, 420, 467, 468, 471 and 120-B of IPC at Police Station Tauru, District Mewat.
2. Status report by way of affidavit of Mukesh Kumar, HPS, Deputy Superintendent of Police, Tauru, District Nuh has been filed. The same is taken on record. As per the contents of the FIR, it was alleged as under:-

“To Superintendent of Police, Mewat Nuh No.608 Panchayat dated 06.06.2011 Sub. Initiation of Criminal Proceedings. CWP No.2163 of 2011 Maherdin & Ors. Vs. Smt. Medha & Ors. (Copy enclosed) was filed in Hon'ble High Court of Punjab & Haryana praying for issuance of a writ in

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the nature of certiorari quashing order (copy enclosed) dated 10.11.2008 passed by the Director Consolidation, Haryana under section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short the Consolidation Act) By virtue of the said order the Director Consolidation, allowed the exchange of land measuring 120 Kanal 12 Marla owned by one Smt. Medha W/o Sanjay and others with Gram Panchayat land of Sehsola, Tehsil Tauru, District Mewat. The order dated 10.11.2008 was passed by Director Consolidation, Haryana on an application made by Smt. Medha w/o Sanjay and others. The Hon'ble High Court in its order dated 21.04.2011 has quashed the order dated 10.11.2008 was passed by the Director, Consolidation, Haryana. While passing the order the Hon'ble Court has observed that the exchange of land of Gram Panchayat allowed by Director, Consolidation, Haryana under Consolidation Act was clearly arbitrary, unreasonable and for reasons de hors the law that governs such issues. The Hon'ble Court found the order fanciful injudicious, irresponsible and unaccountable. The Hon'ble Court has also made the observations that the said order was not passed by the Director, Consolidation for legal consolidation, as they flow the statue. Based on the affidavit filed on behalf of the Gram Panchayat. The Hon'ble Court has concluded that a fraud has been played on the Gram Panchayat Insomuch as no resolution was passed authorizing the Sarpanch or the Panch to give the concession on behalf of the Gram Panchayat before Director, Consolidation to allow exchange of land on the application of Smt.

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Medha and others. The Hon'ble Court has consciously pointed out that the Director, Consolidation was required or refer to the document which authorized the person representing and appearing on behalf of the Gram Panchayat. By not doing so, the Hon'ble Court further observed, Sh. S.C. Goyal, the then Director, Consolidation enabled the fraud to be played on the Gram Panchayat, resulting in the Gram Panchayat losing its land. The Hon'ble Court further pointed out that there has not been any Panch by the name of R. Mohammad who allegedly appeared as Panch before the Director, Consolidation and made statement of R.Mohammad by the Director, Consolidation as sufficient reason to pass the impugned order has been found unpalatable by the Hon'ble Court. The Hon'ble Court has also taken note of the fact that Resp. No.1 in CWP No.2162 of 2011 Smt. Medha Gupta was niece of the officer who was then serving as Director Consolidation, Haryana. The Hon'ble Court is of the opinion as Director Consolidation, Haryana, order dated 10.11.2008 the Director, Consolidation did not take the interest of residents of the village of the Gram Panchayat in to consideration. The order has also been found by the Hon'ble Court to be without jurisdiction as the Director, Consolidation had no authority vested by law in him to allow exchange of Gram Panchayat land. While concluding the Hon'ble Court made observation that the facts and circumstances emanating from the record clearly indicated even commission of criminal offences including that of fraud. The Hon'ble Court directed Deputy Commissioner, Mewat to enable initiations

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of criminal proceedings. In view of the directions of the Hon'ble Court the undersigned sought legal opinion from the District Attorney who was opined that offences u/s 419, 420, 467, 468, 471, 120B IPC are made. You are requested to initiate criminal proceedings against the persons against whom observations of criminal offences including that of fraud have been made by the Hon'ble Court in the order.xxx”

3. The allegations against the petitioners are that petitioner No.1 was Sarpanch and petitioner No.2 was the Panch of the village. They appeared on behalf of Gram Panchayat and made statements in favour of consolidation of land of Megha Gupta which facilitated exchange of land of Gram Panchayat in her favour.

4. Counsel appearing for the petitioners has placed reliance upon order dated 23.01.2018 passed in CRM-M-34579-2013 whereby the impugned FIR stands quashed qua Subhash Chander Goyal, who as per FIR was the prime accused of having committed fraud abusing his official capacity. He further submits that the aforesaid judgment passed by this Court stands affirmed by Supreme Court in Special Leave to Appeal (Crl) No.3747 of 2018 vide order dated 14.03.2023. It has been further brought to the notice of this Court that relying upon the order passed in Subhash Chander Goyal's case, this Court vide order dated 19.07.2023 in CRM-M-29762-2017 quashed the FIR qua Megha Gupta as well. He thus submitted that once criminal proceedings qua main accused and the beneficiary of the alleged fraud stands quashed, there is no plausible reason to continue the proceedings against the petitioners.

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5. Counsel for the State is not in a position to dispute the aforesaid facts. It is matter of record that the FIR qua main accused Subash Chander Goyal stands quashed by this Court on merits. Orders passed by this Court also stands affirmed by Supreme Court.

6. I have heard counsel for the parties and have gone through the records of the case.

7. This Court while quashing FIR against Subhash Chander Goyal observed as under :

“I have gone through the decision of the Apex Court cited by learned State counsel in the case of **State through SPE & CBI, AP versus M. Krishna Mohan and another**, 2007 (4) R.C.R. (Criminal) 882, in which Apex Court has held thus, in Para 33:

“33. In a case of this nature where departmental proceeding was initiated only as against respondent No.2, the enquiry officer did not have the benefit to consider all the materials which could be brought on record by the Department in the light of the investigation made by a specialized investigating agency, the evidence of experts and deposition of witnesses to show that forgery of document has been committed by forging thumb impression and handwriting, we are of the opinion that exoneration of respondent No.2 in the departmental proceedings cannot lead to the conclusion that he was not guilty of commission of the offences wherefor he was charged.”

In the case of **Kamal Kishore Prasad versus State of Bihar through CBI**, 2012 (7) R.C.R. (Criminal) 1168, the learned Single Judge of Patna High Court has stated thus, in Para 15:-

“15. In view of ratio laid down by the Hon'ble Apex court in cases noticed above, I find no merit in the submissions of petitioner that a delinquent exonerated in departmental proceeding would be

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ipso facto entitled to acquittal in criminal prosecution on that basis alone, and the same is accordingly rejected. Issue no.1 is thus decided against petitioner.”

In the case of **Susanta Kumar Dey and others versus Union of India and others**, 2010 (5) R.C.R. (Criminal) 173, the Division Bench of Calcutta High Court has also held that exoneration in departmental proceedings would not ipso facto lead to a judgment of acquittal in criminal trial.

In the case of **State of Bihar versus Dhirendra Prasad Shrivastava**, 2015 (1) R.C.R. (Criminal) 445, the Apex Court in Para 11 has held that the exoneration in the departmental proceedings ipso facto would not result in quashing of the criminal prosecution.

Learned Senior counsel for the petitioner relied on the decision of Apex Court in the case of **P.S. Rajya versus State of Bihar**, (1996) 9 SCC 1. However, in view of Paragraph 11 of the judgment of the Apex Court in State of Bihar versus Dhirendra Prasad Shrivastava's case (supra), the decision in P.S. Rajya's case (supra) would not be in any help of the petitioner. I quote following from Para 11 of judgment of the Apex Court in State of Bihar versus Dhirendra Prasad Shrivastava's case (supra):-

*“11. The third principal ground on which the High Court thought it proper to grant relief to the respondents accused is that in a departmental proceeding instituted against the respondents on the same charges, the respondents were exonerated. Relying on a decision of this Court in **P.S. Rajya v. State of Bihar, [1996(3) R.C.R. (Criminal) 261: (1996) 9 SCC 1]**, the High Court construed the ratio of the aforesaid decision to mean that in a situation where a departmental proceeding against an accused is launched and the accused is exonerated therein, the criminal proceeding on the same charges must necessarily fail and, therefore, should be interdicted. While relying on P.S. Rajya's case supra, the High Court failed to notice a subsequent*

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*decision of this Court in **State v. M. Krishna Mohan**, [2007(4) R.C.R. (Criminal) 882 : 2007(6) Recent Apex Judgments (R.A.J.) 96 : (2007) 14 SCC 667], where this Court had taken the view that exoneration in a departmental proceeding, ipso facto, would not lead to the acquittal of the accused in the criminal trial. Even otherwise, in a three judge Bench decision of this Court in **State (NCT of Delhi) v. Ajay Kumar Tyagi**, [2012(4) R.C.R. (Criminal) 297 : 2012(4) Recent Apex Judgments (R.A.J.) 415 : (2012) 9 SCC 685], it has been explained that the decision in *P.S. Rajya (supra)* must be understood to have been rendered in the facts of the case.....”*

The decisions cited by the learned counsel for the respondents lay down the preposition of law that the exoneration in the departmental inquiry of the same subject matter would not automatically lead to acquittal in a criminal trial or even quashing of the criminal proceedings. There can be no quarrel over the said preposition. However, in the present case, what is significant is that in the same subject matter and the same facts on the basis of which FIR in question has been lodged, there is a judgment of a competent Tribunal with categorical findings that the petitioner did no wrong and had the authority to make order as quoted above by me in respect of the same subject matter. *Not only that, by quoting the decisions of Apex Court in the cases of **Zunjarrao Bhikaji Nagarkar vs. UOI and others** (1999) 7 SCC 409 and **Union of India vs. A.N. Saxena**, (1992) 3 SCC 124 and Punjab and Haryana High Court's Judgments in the cases of **Gayatri Jain versus State of Punjab**, (2005) 2 RCR (Cri) 535 and **Vivek Padam Singh versus State of Haryana and others**, 2008 SCC OnLine P&H 1685, that the quasijudicial authority is immune from disciplinary proceedings. The said judgment of the Tribunal has become final and conclusive as it was not challenged before the higher Courts. The sanctity attached to a judgment of a Court (C.A.T.) cannot be compared with the institution of or exoneration of delinquent in*

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departmental proceedings. Thus, when the Tribunal has clearly adjudicated about the insulation/protection to the petitioner in terms of various decisions by the Supreme Court quoted in the said judgment of the Tribunal, the petitioner having acted as quasi judicial officer having power under Section 42 of the Act of 1948, cannot be allowed to be prosecuted in the manner that has been done. Neither the police nor the criminal Court can be allowed to sit over the findings recorded by the Tribunal as aforesaid in the same subject matter and adjudicate about the same over and again. There is, therefore, a marked distinction of exoneration of a person in departmental inquiry and the judgment of a competent Tribunal which is headed by a former Judge of the High Court. Allowing the police to investigate and the criminal Court to adjudicate in such a fact situation is not at all warranted as it would shake the public confidence. It is also significant to note that there is no semblance of even minimal evidence except a bald statement that Mrs. Medha Gupta is niece of the petitioner or his relative, nor there is any evidence of mala-fides. Then the land is also said to have been returned by Mrs. Medha Gupta.”

8. Keeping in view the fact that this Court while entertaining quashing petition of the main accused held that there was no criminal offence involved and thus he does not need to be prosecuted, this Court does not find any ground to deny parity to the petitioners vis-a-vis Subhash Chander Goyal and Megha Gupta. Once it has been held upto Supreme Court that there was no offence made out and thus it was not plausible to continue proceedings against Subhash Chander Goyal-the main accused, the present proceedings against the petitioners who appeared on behalf of panchayat and made statement of fact cannot be allowed to continue.

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9. Resultantly, the present petition is allowed. FIR No.198 dated 09.6.2011, registered for offences punishable under Sections 419, 420, 467, 468, 471 and 120-B of IPC at Police Station Tauru, District Mewat is hereby ordered to be quashed against the petitioners.

(PANKAJ JAIN)
JUDGE

15.04.2024

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No