



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.2678 of 2024 (O&M)
Date of Decision: 29.10.2024

Shokat Ali
.....Appellant.
Versus
State of Haryana and others
.....Respondents.

CORAM: *HON'BLE MR. JUSTICE G.S. SANDHAWALIA*
 HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Vikram Singh, Advocate
 for the appellant.

G.S. SANDHAWALIA, J.(Oral)

Challenge in the present Letter Patent Appeal is to the order dated 16.10.2024 passed by the learned Single Judge, whereby the writ petition filed by the appellant bearing *CWP No.27738 of 2024* titled as '*Shokat Ali Versus State of Haryana and others*', was dismissed.

2. Resultantly, initiation of the criminal proceedings on the basis of preliminary inquiry by the Deputy Commissioner, Nuh, was made as per letter dated 30.09.2024 (Annexure P-4). Challenge is thus regarding setting aside the Inquiry Report dated 26.09.2024 (Annexure P-3) on the basis of which recommendation for registration of the FIR against the present appellant has duly been made.

3. Learned Single Judge has already reproduced the conclusion aspect of the Inquiry Report. We, however, reproduce the allegations which



would found to be substantiated in the said Report, which read as under:

“Inquiry

Upon perusal of the work registers for work to be done under state and central finance commission funded projects it was found that-

- 1. Bill number 25 (amounting to Rs.1,51,399.00) was missing from the register of bills. Additionally works under bill numbers 24 (amounting to Rs.3,14,000.00) and 25 had not been entered into the register that contains details of the works (Karravai register).*
- 2. The labour work muster roll in bill number 26 (amounting to Rs.44,386.00), for the utilisation of procured items under bill number 24,25 seemed to be filled up fraudulently. The attendance of labourers was filled up conspicuously and additionally the signatures of all the labourers was done in the same font with the same pen.*
- 3. There is a bill amounting to Rs.1,49,072.00 which has been used to provide 31 street lights to the village of Sunari, however, on inquiring from the local people of the village it was found that no street lights have ever been installed in the village.*
- 4. There are two bills amounting to Rs.1,35,000.00 and Rs.73,500.00, which are both billed for the same work which is for the utilisation of malba and mitti on a local village road from the house of Hanif to the house of Kullu and onwards to the house of*



Harun. However, on inquiry from the residents it has been found that no such material has been utilised on the said road and it remains kaccha.”

It is on this basis, the Deputy Commissioner has recommended the registration of the FIR.

4. Learned Single Judge has rejected the argument of the appellant that there is a procedure prescribed under Section 53 of the Haryana Panchayati Raj Act, 1994 (for short ‘the 1994 Act’), regarding the loss, waste or mis-application of any money or property belonging to the Panchayat made by an Ex-Sarpanch or Panch due to his neglect or misconduct. However, we are of the considered opinion that it is not a case under the said provision which provides for an opportunity for hearing, whereby the liability for the loss is fixed on the basis of the application made by the Gram Panchayat and a detailed procedure for recovery has been laid down, whereas the criminal liability has a separate connotation.

5. It is on the basis of the preliminary inquiry, which has been conducted by the Assistant Commissioner(UT), Nuh, and the specific allegations have been levelled for not installing 31 street lights in Village Sunari and it has been found that no street lights had been installed in the village against the bill amount to Rs.1,49,072/-. Once the offence of misappropriation is made out and lodging of the FIR has been recommended, the argument that the appellant is protected under Section 204 of the 1994 Act, is without any basis.

6. In similar circumstances, learned Single Judge in **Smt. Sona**



Devi Versus State of Haryana, 2008(2) PLR 751, while dealing with the quashing of the FIR on the same basis, held that Section 53 of the 1994 Act does not put an embargo on the State to initiate criminal action regarding misappropriation of Panchayat funds and both civil and criminal liabilities could run parallel.

7. For the reasons mentioned in the judgment of this Court in *Sona Devi's case (supra)*, we are of the considered opinion that learned Single Judge is justified in dismissing the writ petition and we do not find any illegality or irregularity in the said order. Even Section 204 of the 1994 Act provides for protection to the elected representative of the act done in good faith but any misappropriation of public money cannot be construed to be covered under the said provisions.

8. Resultantly, there is no merit in the present appeal and the same is dismissed in *limine*.

9. Needless to say that we have not commented upon the merits of the FIR since it is yet to be lodged.

(G.S. SANDHAWALIA)
JUDGE

October 29, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No