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

CRM-M-7304-2025(O&M)

Date of decision: 11.02.2025

Nathuram and others

...Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mohammand Arshad, Advocate for the petitioners.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed for quashing of complaint No.COMI/35 dated 19.09.2023 (P-4) under Sections 120B, 420, 406 of the Indian Penal Code, 1860 (for short 'IPC'), as well as summoning order dated 23.08.2024 (P-5) passed by learned Judicial Magistrate First Class, Tohana (for short 'JMFC') in view of the fact that on same set of allegations in FIR No. 0130 dated 06.06.2023 under Sections 406 and 420 of IPC, registered at Police Station Sadar Tohana, District Fatehabad, petitioners were exonerated by the Police.

2. Allegations are that petitioners hatched criminal conspiracy with co-accused-Ravinder (son of petitioner No.1) and cheated complainants i.e. respondent Nos. 4 & 5, to the tune of Rs. 49,45,000/- on the pretext of getting government jobs for their family members; thus, caused illegal loss to them.



3. Contends that in pursuance of notices dated 17.03.2023 and 30.03.2023, the petitioners joined investigation, before the Economic Cell, Crime Branch, Fatehabad and they were exonerated from all the allegations. Further contends that now, petitioners have been falsely implicated in the present complaint, which has resulted into passing of the impugned summoning order dated 23.08.2024. Also contends that no reasons have been recorded while passing the impugned order by learned JMIC and to substantiate his contentions, relies upon judgment dated 08.03.2021 passed by Hon'ble Supreme Court in 'Krishna Lal Chawla and others Vs. State of U.P. and another' (2021) 5 Supreme Court Cases 435.

4. Heard learned counsel for the petitioner and perused the paper-book.

5. It transpires that Ravinder who is son of petitioner No.1-Nathuram and met Vinod Kumar-respondent No.5 (son of respondent No.4-Ramphal) at Hisar, where they were preparing for some competitive examination. During this period, petitioner No.1 also contacted respondent No.4 and gave assurance that he can arrange job for his son (respondent No.5-Vinod Kumar) as a Clerk in Haryana Staff Selection Commission, for an amount of Rs. 49,45,000/-. When accused party failed to provide the job and/or to return the money; respondent No.4 made a complaint on 24.12.2022 to Economic Offences Wing, Kaithal. However, due to intervention of petitioner No.1, who happens to be an ASI, CIA Staff, Kaithal, the matter was compromised between the parties on 12.01.2023 with the condition that petitioner No.1 shall return Rs. 38,00,000/- in three instalments i.e. Rs.20,00,000/- on 12.02.2023; Rs.10,00,000/- on 20.04.2023 and Rs.8,00,000/- on 15.07.2023, respectively.



6. Also transpires that 05 cheques were issued by petitioner No.1, but no money was available in his account; therefore, cheques were not presented by complainant party for encashment. For reference, the details of cheques are as under:-

Cheque No.	Amount	In the name of
001468	13,60,000/-	Ramphal-respondent No.4
001469	9,95,000/-	Respondent No.4
001470	9,90,000/-	Respondent No.4
000030	8,00,000/-	Name not mentioned
000029	8,00,000/-	Name not mentioned

7. Despite above and waiting for considerable period, amount was not paid by petitioners and ultimately, respondent No.4 gave a complaint dated 16.03.2023 to Superintendent of Police, Fatehabad. The matter was examined and FIR No.0130 dated 06.06.2023 (*supra*), was registered only against Ravinder son of petitioner No.1, without verifying the true facts. Even accused-Ravinder did not join the investigation and ultimately, he was declared a proclaimed person by the Court of competent jurisdiction on 20.04.2024.

8. Since, there are specific allegations against the present petitioners and despite that, they were not included as accused in the above FIR due to influence of petitioner No.1, who happens to be an ASI; thus, complaint in question (P-4) was filed by respondent Nos.4 & 5. While appearing as PW-1, respondent No. 4 produced various documents and which are as under:-

<i>Ex.CW1/A</i>	<i>Copy of complaint</i>
<i>Ex.CW1/B</i>	<i>Copy of application dated 12.01.2023</i>
<i>Ex.C2 to C5</i>	<i>Copy of statement of account</i>



<i>Mark C1</i>	<i>Copy of Performa Finalization of Selection Report</i>
<i>Mark C2</i>	<i>Details of Statement</i>
<i>Mark C3</i>	<i>Copy of Performa Finalization of Selection Report</i>
<i>Mark C4</i>	<i>Copy of memo no.05/19/809-G-2 HSSC</i>
<i>Mark C5</i>	<i>Copy of Officer order Urgent</i>
<i>Mark C6</i>	<i>Cheque bearing No. 001468 dated 27.09.2022</i>
<i>Mark C7</i>	<i>Cheque bearing No. 001469 dated 16.11.2022</i>
<i>Mark C8</i>	<i>Cheque bearing no. 001470</i>
<i>Mark C9</i>	<i>Cheque bearing no. 000030</i>
<i>Mark C10</i>	<i>Cheque bearing no.000029</i>
<i>Mark C11</i>	<i>Returned memo dated 21.12.2022</i>
<i>Mark C12</i>	<i>Copy of application</i>
<i>Mark C13</i>	<i>Copy of FIR No. 130 dated 06.06.2023</i>
<i>Mark C14</i>	<i>Copy of application dated 04.08.2023</i>
<i>Mark C15 to C18</i>	<i>Copy of statement of account</i>
<i>Mark C19</i>	<i>Copy of detailed statement</i>

9. After taking into consideration the material on record, learned JMIC passed the impugned summoning order dated 23.08.2024. There are specific allegations against the petitioners and *prima facie*, it is discernible that due to influence of petitioner No.1, he was not named in the FIR by the police.

Thus, in the opinion of this Court, learned JMIC has rightly passed the impugned summoning order.

10. Also noteworthy that judgment relied upon by learned counsel for petitioner would not be helpful being distinguishable on facts, inasmuch as:-



- i. In the cited case, there was a cross-case between the parties; factum of filing of charge-sheet was deliberately concealed by respondent No.2 therein.*
- ii. In that case, appellants therein were suffering from serious ailments and, thus, order was passed considering the peculiar circumstances of the case.*
- iii. Apart that, in said case, proceedings were instituted with an oblique motive after delay of 06 years, which is not the position in present case.”*

- 11. In view of the above, there is no other option, except to dismiss the petition.
 - 12. Ordered accordingly.
 - 13. Needless to say that above observations be not construed as an expression of opinion on the merits of the case, in any manner.
- Pending application(s), if any, shall also stand disposed off.

11.02.2025
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No