

114 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4590-2025 (O/M)
Date of decision : 21.02.2025

Sunil Kumar Petitioner

Versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Kawalpreet Singh Virk, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Sunil Kumar) has preferred this writ petition under Articles 226/227 of Constitution of India, inter alia, for issuance of a writ in the nature of certiorari for setting aside order dated 22.01.2025 (Annexure P-24), passed by Deputy Commissioner, Hisar (in short 'Deputy Commissioner'), whereby the petitioner was placed under suspension from the post of Sarpanch of Gram Panchayat Raipur, Block Hisar-1, Tehsil and District Hisar.

1.1 Further challenge has been made to order dated 06.02.2025 (Annexure P-25), passed by Commissioner, Hisar Division Hisar (in short 'Divisional Commissioner') to the extent whereby stay application filed by petitioner alongwith his statutory appeal challenging his suspension order dated 22.01.2025 (Annexure P-24), has been dismissed.

2. Briefly, the petitioner was elected as Sarpanch of Gram Panchayat Raipur on 25.11.2022. Concededly, prior to his election, the

wife of the petitioner, namely, Smt. Suman Rani, got an FIR No. 674 dated 17.11.2022, registered against the petitioner at Police Station Civil Lines, Hisar, under Sections 313, 323, 498-A, 506 IPC (Annexure P-16), wherein the petitioner was arrested and he (petitioner) was granted regular bail on 03.04.2023, however, copy of said order has not been placed on record. The date of arrest of petitioner is also not forthcoming.

3. Be that as it may, as per the petitioner's own pleadings, the trial Court, vide an order dated 03.02.2024 (Annexure P-20), framed the charges against the petitioner under Sections 313, 498-A, 323, 506 IPC, the relevant extract of which reads as under :-

“ Charge-Sheet

State Vs. Sunil Kumar

FIR No. 674 dated 17.11.2022

Police Station : Civil Lines, Hisar.

Under Sections : 313, 323, 498A, 506 IPC

I, Amit Sahrawat, Addl. Sessions Judge-cum-Judge,

Special Court for Heinous Crime Against Women, Hisar, do

hereby charge you :

Sunil Kumar son of Mewa Singh resident of village

Raipur, District Hisar.

as under :-

That from the year 2021 to 2022, in the area of Raipur, you above named accused maltreated and harassed victim Mrs. Suman for demand of dowry and thus, thereby committed an offence punishable under Section 498-A IPC, which is within the cognizance of this Court.

Secondly, during the abovesaid period and area you above named accused voluntarily caused simple hurt to victim Mrs. Suman and thus thereby committed an offence under Section 323 IPC, which is within the cognizance of this Court.

Thirdly, you the above named accused without the consent of victim Mrs. Suman has caused her miscarriage by beaten her and thus thereby committed an offence punishable under Section 313 IPC, which is within the cognizance of this Court.

Fourthly, you the above named accused committed criminal intimidation by threatening Mrs. Suman to cause her death and thereby committed an offence punishable under Section 506 IPC, which is within the cognizance of this Court.

And I hereby direct that you be tried by this Court for the aforesaid charges.

Date of Order : 03.02.2024 (Amit Sahrawat)

*Addl. Sessions Judge-cum-Judge .
Special Court for Heinous Crime
Against Women, Hisar
UID No. HR0217”*

4. Petitioner is stated to have filed a quashing petition bearing No. CRM-M-18551-2024 before this Court, wherein vide order dated 31.07.2024 (Annexure P-21), it was directed that the passing of final order by the trial Court is stayed till next date of hearing, however, the trial proceedings would continue.

5. Apparently, petitioner's wife, namely, Smt. Suman Rani also submitted a complaint before learned Deputy Commissioner, Hisar, whereupon a show cause notice was issued to the petitioner as regards following allegations :-

“1. That a case numbered 674 dated 17.11.2022 under Sections 498A, 313, 323, 506, 34 IPC is registered against Sunil Kumar, Sarpanch, Gram Panchayat Raipur, at Police Station Hisar Civil Lines, and Section 313 IPC was found to be included in the case. Furthermore, the charge sheet in this case against you was prepared on 15.09.2023 and presented before the Honorable Court on 18.10.2023, which

is currently under judicial consideration. The Honorable Court through its order dated 03.02.2024, framed charges under Sections 313, 323, 498A, and 506 IPC against Sunil Kumar, son of Meva Singh, resident of Raipur, in the court of Additional Sessions Judge, Hisar.

2. This is that against Sunil Kumar, son of Meva Singh, at Police Station Hisar Civil Lines, case number 354 dated 01.07.2023 under Sections 323,354D,365,452,506,34 IPC is registered.”

5.1 Considering the involvement of the petitioner in criminal offences, as noticed above, Deputy Commissioner, Hisar, vide order dated 22.01.2025 (Annexure P-24), suspended petitioner from the post of Sarpanch of Gram Panchayat Raipur, Hisar, by exercising powers under Section 51(1) of Haryana Panchayati Raj Act, 1994 (in short '1994 Act') by observing that the offences, for which the petitioner has been charged in case FIR No. 674 dated 17.11.2022, falls under the category of moral turpitude.

5.2 Evidently, the petitioner preferred an appeal against his suspension order dated 22.01.2025 (Annexure P-24) before learned Divisional Commissioner. Alongwith the appeal, an application for staying the suspension order was filed, however, said stay application was declined by learned Divisional Commissioner, vide impugned order dated 06.02.2025 (Annexure P-25).

6. In the aforementioned circumstances, petitioner has filed this civil writ petition before this Court for the relief(s), as noticed hereinabove.

7. The only argument raised by learned counsel for the petitioner is that the offences for which the petitioner has been booked,

does not amount to "moral turpitude" and hence, his suspension from the office of Sarpanch was illegal.

8. For proper adjudication of the matter it is relevant to refer to provisions of Section 51(1) of the 1994 Act, which read as under :

*"51. Suspension and removal of a Sarpanch or Panch. -
(1) The Director or the Deputy Commissioner concerned may, suspend any Sarpanch or Panch, as the case may be, -
(a) where a case against him in respect of any criminal offence is under investigation, enquiry or trial, if in the opinion of the Director, or Deputy Commissioner's concerned the charge made or proceedings taken against him, is likely to embarrass him in the discharge of his duties or involves moral turpitude or defect of character,
(b) during the course of an enquiry for any of the reasons for which he can be removed, after giving him adequate opportunity to explain."*

8.1 A bare perusal of clause (a) of sub-section (1) of Section 51 of the 1994 Act, reproduced above, shows that where a Panch or Sarpanch is involved in a criminal offence, the Deputy Commissioner or the Director concerned can suspend him if in his opinion, the charge made or proceeding undertaken are either likely to embarrass him in the discharge of his duties or involve moral turpitude or defect of character.

9. In this writ petition, the petitioner is involved in criminal offences under Sections 313, 498A, 323, 506 i.e. causing a miscarriage without the woman's consent, cruelty to a woman by her husband or his relatives, voluntarily causing hurt, criminal intimidation; which in the opinion of any reasonable man with common understanding and reasoning would fall within the meaning of moral turpitude.

10. In the aforesaid case, charges have been framed by the Court of competent jurisdiction and criminal trial has commenced. I am of the view that in this case, the Deputy Commissioner concerned i.e. the competent authority, while exercising his powers to suspend the petitioner as Sarpanch under Section 51 (1) of the 1994 Act, has formed an opinion, based on sufficient material, that he (petitioner) was involved in cases which involve both moral turpitude as well as was likely to embarrass him in discharge of his duties, after following the principles of natural justice.

11. Keeping in view the nature of charges framed against the petitioner and finding that the procedure envisaged under Section 51 of 1994 Act was followed, I find no reason to differ with the opinion formed by the competent authorities, to suspend the petitioner from the office of Sarpanch.

12. No other point has been raised.

13. For the reasons stated hereinabove, the instant writ petition, being devoid of any merit, is hereby dismissed.

14. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

21.02.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No