2025:PHHC:032926

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-12325-2025
Date of decision: March 6th, 2025

Bhagwan Dass

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.K. Garg Narwana, Senior Advocate
with Mr. Abhishek Vig, Mr. Nitin Sachdeva
and Mr. R.P.S. Jammu, Advocates
for the petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

Prayer in the instant petition is for quashing of FIR No.18 dated 27.12.2023 under Sections 420, 465, 466, 467, 468, 471 and 120-B of the IPC, Sections 7 and 8 of The Prevention of Corruption Act, 1988 (hereinafter referred to as 'the P.C. Act') and Section 65 of the I.T. Act registered at Police Station Vigilance Bureau, Economic Offences Branch/Wing, Ludhiana, along with all consequential proceedings arising therefrom.

2. Learned senior counsel appearing for the petitioner contends that the petitioner has been falsely implicated in the present FIR, which has been annexed as Annexure P-1. Allegedly, the petitioner in collusion with the co-accused, demanded and accepted a bribe and made a forged mutation by concealing material facts at the time of making an entry in *Fard Badar* dated 18.07.2022. However,

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it is asserted by the learned senior counsel that there is no allegation in the FIR directly attributing any demand or acceptance of illegal gratification to the petitioner.

3. It is submitted by the learned senior counsel that the petitioner was posted as Patwari in Patwar Halka Balran-A and Balran-B on 29.06.2022, whereas the land in question had already been transferred by Balwant Singh in favour of his grandson, Balraj, through a transfer deed dated 26.04.2022, prior to the petitioner assuming charge. Thus, the mutation of the said land was not initiated at the instance of the petitioner.

4. Learned senior counsel further submits that the petitioner first received the transfer deed on 08.07.2022 and, in accordance with the prescribed procedure, recorded mutation No.11123. However, subsequently, Gurtej Singh lodged a complaint alleging discrepancies in the revenue records. Upon receiving this complaint, the petitioner promptly examined the matter and rectified the error by recording *Fard Badar* No.16 dated 18.07.2022 (Annexure P-6).

5. While drawing the attention of this Court to Annexure P-6, learned senior counsel has further submitted that the rectification carried out by the petitioner was duly approved by his superior authority, the Tehsildar, Moonak, on the same date. Despite this, the Tehsildar has not been arrayed as an accused in the FIR, thereby demonstrating the *mala fide* intent behind the prosecution of the petitioner.

6. Learned senior counsel has also placed reliance on Annexure P-7, which is an inquiry report, to assert that in the inquiry

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conducted by the Tehsildar, Moonak, into the complaint filed by Gurtej Singh, it was revealed that the forged and fabricated mutation had actually been entered by Dharamraj (then Patwari Halqa Balran-B), Mithu Singh (then Patwari Halqa Salemgarh, holding additional charges as Field Kanungo, Moonak), and Balwant Singh. The inquiry report, it is submitted, does not attribute any culpable role to the petitioner in the alleged illegal mutation.

7. Learned senior counsel has argued that the only act attributed to the petitioner is the alleged omission to enter the details of transfer deed No.53 in the *Fard Badar,* which, even if assumed to be true, does not constitute an offence under the P.C. Act much less forgery under the Indian Penal Code. At best, such an omission can be perceived as negligence in the discharge of official duties and therefore, does not warrant criminal prosecution.

8. On these premises, learned senior counsel has prayed for the quashing of the FIR (Annexure P-1) and all consequential proceedings against the petitioner, invoking the inherent powers of this Court under Section 528 of the BNSS/482 of the Cr.P.C.

9. Learned State counsel, on the other hand, has vehemently opposed the prayer and submissions made by the counsel opposite by contending that the FIR discloses *prima facie* material to justify trial against the petitioner. It has been submitted that the petitioner, along with the co-accused, engaged in corrupt practices by manipulating the revenue records in exchange of illegal gratification.

10. It has been further contended by the learned State counsel that the allegations in the present FIR are not limited to a mere act of

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negligence but pertain to a deliberate concealment of facts while making an entry in the *Fard Badar.* The role of the petitioner in facilitating illegal mutation is a matter of trial and cannot be preemptively adjudicated before this Court under Section 528 of the BNSS.

11. Learned State counsel has argued that the inquiry report (Annexure P-7) relied upon by the petitioner cannot be considered conclusive at this stage. It has been submitted that the involvement of other officials does not exonerate the petitioner as liability under criminal law is individual and not contingent on the prosecution of co-accused. Accordingly, it is prayed that the instant petition be dismissed.

12. I have heard learned counsel for the parties and perused the relevant material on record.

13. The primary issue before this Court is whether the inherent jurisdiction under Section 528 of the BNSS should be exercised to quash the FIR in question against the petitioner.

14. It is well-settled principle of law that the power to quash an FIR is to be exercised sparingly and only in cases where the allegations do not *prima facie* disclose the commission of any cognizable offence or where the prosecution is manifestly malicious and an abuse of the process of law. Hon'ble the Supreme Court in ***State of Haryana and others Versus Bhajan Lal SCR 1990 Supp. 3*** has laid down specific categories of cases where quashing may be justified. However, where the allegations disclose a triable issue, the matter should be left for adjudication in the proper forum.

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15. Adverting to the present case, the allegations in the FIR suggest that the petitioner, along with co-accused, had allegedly received illegal gratification and manipulated the revenue records. Though the petitioner disputes these allegations and claims that his actions were merely procedural, such factual controversies cannot be adjudicated in a petition for quashing under Section 528 of the BNSS. The determination of whether the petitioner acted with criminal intent or merely erred in official duty, involves appreciation of evidence, which is within the domain of the trial Court.

16. The contention that the petitioner did not demand or accept any bribe does not automatically absolve him of liability. Under the P.C. Act, even if a public servant is not directly involved in the act of solicitation or acceptance of illegal gratification, his role in facilitating or participating in an illegal act is sufficient to attract criminal culpability.

17. Furthermore, the inquiry report (Annexure P-7) relied upon by the petitioner does not conclusively exonerate him. Such reports, unless forming part of official, judicial or quasi-judicial determination, do not constitute unimpeachable evidence to warrant the quashing of an FIR.

18. The argument that the Tehsildar has not been arraigned as an accused does not, in itself, render the prosecution against the petitioner invalid. The petitioner cannot claim immunity merely because another official has not been implicated.

19. In light of the settled legal principles and the material placed on record, this Court is of the considered view that no case for

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quashing the FIR in question is made out and, therefore, this Court is not inclined to invoke its inherent jurisdiction under Section 528 of the BNSS.

20. Accordingly, the instant petition stands dismissed.

21. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

March 6th, 2025 **(MANJARI NEHRU KAUL)**
Puneet **JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No

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