



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

**CRM-M No.13875 of 2024 (O&M)
Reserved on :05.09.2025
Pronounced on:13.10.2025.**

Ved Parkash Sheoran

.....Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Argued by:Mr. Sunil Panwar, Advocate and
Ms. Tejashwini, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, Addl. A.G. Haryana.

Mr. Rahul Deswal, Advocate for respondent No.2.

SURYA PARTAP SINGH, J. (Oral):

Instant case is one of the rare cases wherein due to technicalities prescribed under Limitation Act 1963, principles of law vis-a-vis cause of justice seems to have been placed on the back seat. The petitioner has been summoned by the learned trial Court to face a trial for the offence under Sections 409, 420, 465, 468, 471 and 120-B IPC, and he has been served, by the learned trial Court, with the charge-sheet.

2. The facts related to the present case are that petitioner was a Principal (now retired) in a college and the complainant-respondent No.2 was a teacher in the same institution. The petitioner had recorded some adverse remarks in the Annual Confidential Report of the complainant-respondent No.2, and, therefore, the respondent No.2-complainant was aggrieved. The



factual matrix of the present case shows that as a Principle of the College, the petitioner had signed certain documents which, according to complainant were, having false contents. The complainant-respondent No.2 claims that the creation of above mentioned documents amounted to forgery.

3. The above mentioned complaint was duly probed by the departmental authority in an inquiry and finding no substance in the complaint, preferred by the respondent No.2, such complaint was filed. In the similar fashion, the complaint had preferred a complaint before the police authorities, containing the same allegations, but the above mentioned complaint, too, did not find favour of the Investigating Agency. Thus by saying that there was no truth in the allegations, the Investigating Agency moved a cancellation report in the Court of learned Area Magistrate. However, the learned Area Magistrate, not being convinced with the grounds taken in the cancellation report, took cognizance against the petitioner and passed a summoning order calling upon the petitioner to stand trial for the commission of offence punishable under Sections 409, 420, 465, 468, 471 and 120-B IPC.

4. The order dated 03.03.2021, whereby the cognizance has been taken and the petitioner has been summoned to face trial, makes it abundantly clear that the petitioner along with Vijay Singh HOD (Computer Science) and Smt. Jyoti Jangra, Extension Lecturer, have been summoned as accused, in the exercise of jurisdiction vested in the Court of learned Judicial Magistrate Ist Class, Jind, by virtue of Section 190(1)(b) Cr.P.C. The above mentioned summoning order was passed without calling upon the complainant to lead preliminary evidence.



5. Although, apparently the details of evidence responsible for forming the opinion recorded in the order dated 03.03.2021, and justifying the cognizance of offence, have not been mentioned, yet the revision petition preferred by the petitioner did not find favour in the Court of learned Additional Sessions Judge, Jind due to bar of limitation.

6. The Court of learned Judicial Magistrate, hereinafter being referred to as learned trial Court only, while taking cognizance observed that: *thus, prima facie, there are sufficient grounds to proceed against accused persons namely Ved Prakash Sheoran, Vijay Singh HOD (Computer Science) and Smt. Jyoti Jangra, Extension Lecturer, who abused their official position and by hatching criminal conspiracy with each other, committed cheating and thereby caused wrongful loss to the State Exchequer (Govt. of Haryana) and wrongful gain to themselves. The entire exercise was undertaken by preparing false bill by all three accused persons in pursuance of criminal conspiracy. By preparing false salary bills as well as HRA bills, Govt. money was misappropriated. By preparing false Salary bills as well as HRA bills, false claim was put forward by accused/principal Ved Prakash Sheoran and Smt. Jyoti Jangra Resource Person. These bills were forged for the purpose of cheating. These forged bills were used as genuine despite knowing that they have been falsely prepared. In this scenario, this Court reaches to irresistible conclusion that it is a fit case to exercise discretion under the provision of Section 190(1)(b) Code of Criminal Procedure. Cognizance is taken and accordingly, accused persons namely Ved Prakash Sheoran, the then Principal of Govt. College, Jind, Shri Vijay Singh, the then HOD Computer Science*



Department and Smt. Jyoti Jangra, the then Resource person (Computer Science), are hereby ordered to be summoned under sections 120-B, 409, 420, 465, 468 & 471 of IPC. Resultantly, cancellation report filed by Police of P.S. City, Jind is not accepted and present application is accordingly disposed off. Let, all the accused persons be summoned for 05.04.2021.”

7. Thereafter, the petitioner appeared before the learned trial Court and the learned trial Court on the basis of final report submitted by the police, by virtue of order dated 09.02.2023, observed that even if the petitioner was a public servant, the nature of offence allegedly committed by the petitioner did not require sanction of the competent authority. As per learned trial Court, on the basis of final report submitted by the police, along with relevant documents, a *prima facie* case for the commission of offence punishable under Sections 409, 420, 465, 468, 471 and 120-B IPC, was made out.

8. Heard.

9. It has been contended by learned counsel for the petitioner that in the present case, miscarriage of justice has taken place due to wrong exercise of jurisdiction by the learned trial Court, and that it is misfortune of the petitioner that despite the fact that substantial law is in his favour, he is deprived of justice due to certain technicalities, vis-a-vis misinterpretation, of law. According to learned counsel for the petitioner firstly, the petitioner is being prosecuted without prior sanction of the competent authority, i.e. State Government, and secondly, by adopting a wrong procedure charge-sheet has been served upon him by the learned trial Court.

10. The above mentioned arguments have been controverted by the



learned State counsel, being assisted by learned counsel for respondent No.2. While defending the impugned order, it has been argued by learned counsel for the respondent No.2 that after due consideration of material available on record, it has been rightly observed by the learned trial Court that there is ample material, on record, to draw an inference that the petitioner had indulged in conspiracy with his co-accused and created false documents, thereby facilitating the undue payments towards wages/salary to the co-accused, namely Jyoti Jangra. According to learned counsel for the respondent No.2, since false documents have been created by the petitioner and his co-accused, and such act amounted to offence under Sections 409, 420, 465, 468, 471 and 120-B IPC, there is no requirement of sanction of competent authority for the prosecution of the petitioner.

11. In support of his above mentioned arguments, the learned counsel for the respondent No.2 has relied upon the observations made by the Hon'ble Supreme Court of India in the case of **Raghunath Anant Govilkar Vs. State of Maharashtra and others, AIR (Supreme Court) 2008(sup) 1486**, wherein it has been observed that for the commission of offence punishable under Sections 406, 409 and 120-B IPC, sanction under Section 197 of the Code of Criminal Procedure is not required. The learned counsel for the respondent No.2 has also referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of **Inspector of Police and another Vs. Battenapatla Venkata Ratnam and another 2015 (3) RCR (Criminal) 36**, wherein the Hon'ble Supreme Court of India has ruled that indulgence of officer in cheating, fabrication of record or misappropriation



cannot be said to be in discharge of his official duty.

12. With regard to above mentioned principles of law it is also relevant to mention there that in the case of **Raghunath Anant Govilkar (supra)**, the Hon'ble Supreme Court of India has also propounded that if the offence has been committed by the public servant in discharge of his duty, the sanction under Section 197 Cr.P.C. is mandatory, and that cognizance in such cases can not be taken. The Hon'ble Supreme Court of India has further laid down that in such cases even the notice of the complaint cannot be taken.

13. It is significant to mention here that in order to find out, as to whether the act done by a public servant has been committed in discharge of his duty or not, a test has been prescribed by the Hon'ble Supreme Court of India. According to Hon'ble Apex Court sanction for the prosecution would be required, if the omission or neglect on the part of the public servant to commit the act complained of, could have made him answerable for a charge of dereliction of his official duty. If the answer to this question is in the affirmative, it may be said that such act was committed by the public servant while acting in the discharge of his official duty and there was every connection with the act complained of and the official duty of the public servant.

14. In the light of above mentioned guidelines prescribed by the Hon'ble Supreme Court of India, if the factual matrix of the instant case is analysed it transpires that in the present case, charge has been framed by the Court of learned Judicial Magistrate merely on the basis of cancellation report and protest petition. There was no pre-charge evidence available with the



Court of learned Judicial Magistrate and there was not even a single statement to show that creation of documents, which led to sanction of wages/salary to accused Jyoti Jangra, was the outcome of forged documents. Merely, on the basis of assumptions and presumptions, it has been observed by the learned trial Court, at the time of taking cognizance as well as framing of charge, that the documents which were sanctioned by the petitioner were based on false documents.

15. For the sake of arguments, even if, it is assumed that at the stage of taking cognizance or framing of charge only a *prima facie* case is supposed to be proved, even then this fact cannot be ignored that the petitioner was only a sanctioning authority before whom documents were presented for approval, and therefore, unless some oral or documentary evidence, to show his involvement in the preparation of alleged false documents, would have been there, *ipso facto* it could not have been observed that the bills sanctioned by the petitioner were forged one and in that forgery petitioner was involved.

16. Although only a *prima facie* case is required to be established, at the stage of summoning or framing of charge, yet even for *prima facie* case at least there should be some material on record to convince a prudent mind that there was a conspiracy, as claimed by the complainant, and then creation of false documents. Rather, in the instant case, the facts speak otherwise, as not only the police authority but the higher departmental authority, too, have arrived at a conclusion contrary to the claim of the complainant.

17. It is also relevant to mention here that on the basis of same material, by virtue of order dated 09.02.2023, the learned trial Court has



observed that any offence under Sections 409 and 120-B IPC is not made out against the accused Jyoti Jangra, and thus, only the petitioner has been charge-sheeted for the commission of offence punishable under Sections 409, 420, 465, 468 and 471 IPC read with Section 120-B IPC. By virtue of above mentioned order any charge for the commission of offence punishable under Section 409 IPC has not been framed against the co-accused of the petitioner, namely Jyoti Jangra. The revision petition against the above mentioned order, too, was preferred by the petitioner, but on this occasion the petitioner failed to find favour of the learned Revisional Court and the same has been dismissed by virtue of order dated 26.02.2024, while holding that merely because the petitioner has been exonerated in departmental proceedings it cannot be held that he cannot be prosecuted in the instant case.

18. The factual matrix of the instant case, various developments during the course of probe and the orders impugned in this petition shows that:-

- i) on the complaint of respondent No.2 one FIR was lodged, the investigation was taken up and on the basis of evidence collected by the Investigating Agency, it reached to the conclusion that allegations contained in the complaint were not true;
- ii) with regard to same allegations of cheating, forgery and misappropriation, departmental proceedings were initiated but the senior departmental authority of the petitioner, after inquiring, found the petitioner to be innocent;



- iii) on the basis of same material the Court of learned Judicial Magistrate found it appropriate to take cognizance in the exercise of jurisdiction vested in it by virtue of Section 190(1)(b) Cr.P.C., and observed that *prima facie* it was established that an offence punishable under Sections 409 IPC was made out against all the accused, including the petitioner;
- iv) while considering the question of framing of charge on the basis of same material, the learned trial Court observed that any offence punishable under Section 409 IPC is not made out against the co-accused Jyoti Jangra. Thus, only the petitioner and his co-accused namely Vijay Singh have been charge-sheeted for the commission of offence punishable under Section 409 IPC in addition to the sections for which other sections.

19. In the above mentioned fact situation there are several questions which crops up in the present case:-

- i) whether in view of cancellation report preferred by the police, merely on the basis of contents of protest petition, without preliminary evidence, cognizance could have been taken by the Court by invoking jurisdiction of Section 191(1)(b) Cr.P.C.?
- ii) whether after taking cognizance the case should have been treated a case instituted on a police report, or a case instituted otherwise (i.e. on a complaint), if so its effect?
- iii) for taking cognizance and framing of charge previous sanction as enshrined under Section 195 Cr.P.C. was required or not?



20. Before determining the above mentioned three points, first of all it is necessary to deal with the nature of allegations levelled against the petitioner:-

- i) primarily the allegations against the petitioner are that he marked false attendance of Extension Lecturer Jyoti Jangra, and thereafter, payment of salary was made to her, accordingly, as the bills for payment of salary were duly sanctioned by the petitioner;
- ii) that during the period when Extension Lecturer Jyoti Jangra was on education tour, her attendance was marked in the college and salary was illegally paid on the basis of pay-bills sanctioned by the petitioner;
- iii) that payment of salary to Jyoti Jangra Extension Lecturer was wrongly paid for the period from 21.04.2014 to 30.04.2014;
- iv) that despite availability of government accommodation the petitioner claimed 'House Rent Allowance' without approval of the competent authority.

21. In the light of above mentioned allegations contained in the complaint, the points of determination framed in this petition are hereby answered as under:

Point No.1

22. As far as this point of determination is concerned, the law in this regard is settled that in a case wherein cancellation report has been moved by the Investigating Agency, by considering the protest petition the cognizance



can be taken by the Court. However, for such an order the first and foremost condition needs to be satisfied is that the material available on record, collected by the Investigating Agency, coupled with the material attached with protest petition is sufficient to draw an inference that sufficient grounds for taking cognizance, by invoking the jurisdiction enshrined under Section 190(1) (b) Cr.P.C., is made out.

23. In this regard the Hon'ble Supreme Court of India in the case of **Nahar Singh Vs. State of Uttar Pradesh and Anr. 2022(5) SCC 465**, has propounded a principle that by taking cognizance of offence on the basis of police report a Judicial Magistrate can issue summons to any person not arraigned as accused in police report, even if his name does not feature in column No.2. The test prescribed by the Hon'ble Supreme Court of India for such action is the satisfaction of learned Judicial Magistrate to the effect that there is material on record which reveals, *prima facie*, his involvement in the offence.

24. In the case of **Nupur Talwar Vs. Central Bureau of Investigation and Another 2012 (11) SCC 465**, the Hon'ble Supreme Court of India has ruled that if a closure report is submitted by the police, the Court of Judicial Magistrate has power to reject the closure report and issue process to the accused. In view of above, it is hereby held that it was well within the competence of the learned trial Court to take cognizance against the petitioner or his co-accused, in the light of protest petition. It could have been taken even without asking the complainant to lead preliminary evidence.

**Point No.2**

25. In the present case, a very peculiar situation has cropped up. At one stage the learned trial Court in view of protest petition, observed that there was some material collected by the Investigating Agency, which although found to be inadequate by the police for prosecution, was good enough to take cognizance against the petitioner. Since the police had not prosecuted the petitioner, irrespective of the fact that cognizance in response to protest petition of complainant was taken by the learned trial Court, by considering the evidence collected by the Investigating Agency only, the case could not have been treated to be a case filed on police report. In such an eventuality, the offence for which cognizance was taken, being an offence punishable for a sentence of imprisonment of life, should have been treated a case instituted otherwise than on a police report, i.e. a case filed on a complaint. In such situation, the learned trial Court should have proceeded with the case by treating the case to be a warrant case trial.

26. While passing the order with regard to framing of charge, without recording pre-charge evidence and without treating the instant case to be a case instituted otherwise on a police report, the learned trial Court has created a situation wherein there is no list of witnesses. The Code of Criminal Procedure prescribes that in a case instituted on police report the list of witnesses is furnished by the Investigating Agency, and in a case instituted otherwise than on a police report, the list of witnesses is supplied by the complainant. In the present case, there is no list of witnesses supplied by the Investigating Agency, and as the case has not been treated to be a case



instituted otherwise than on a police report, the opportunity cannot be given to the complainant to produce the list of witnesses. In such a situation after framing of charge what evidence is supposed to be adduced and which witness has to be examine is not ascertainable. Thus the situation has arisen that after framing of charge the next step, i.e. recording of prosecution evidence, may not take place.

Point No.3

27. In the present case, the allegations levelled against the petitioner are that being 'Head of the Department' he had sanctioned the bills, whereby payments of wages and salary were made to Extension Lecturer Jyoti Jangra. According to complainant, the above mentioned payments were illegal and documents with regard to discharge of duty by Jyoti Jangra were forged by the petitioner and his co-accused.

With regard to above, it is relevant to mention here that entire act attributed to the petitioner pertains to the discharge of official duty of the petitioner, and, whatever, the payment was made to Smt. Jyoti Jangra, the loss had been caused to the State Exchequer and not to the complainant. In such a scenario the State would have been the victim of the alleged illegal acts of the petitioner. However, despite probe against the petitioner, the State is not aggrieved of the acts of the petitioner.

As a sequel to above mentioned observations since the act attributed to the petitioner is an act for which he could have been punished by the department in a disciplinary proceedings, it is



hereby held that there was a direct nexus between the alleged commission of offence and the official duty of the petitioner. Thus, any cognizance against the petitioner without sanction under Section 197 Cr.P.C. was barred.

Since it has been found that the act responsible for taking cognizance a direct nexus with the discharge of official duty of the petitioner, it is hereby held that without sanction of the State, the petitioner, being a public servant, could not have been prosecuted/charge-sheeted.

28. Taking into consideration the cumulative effect of all the above mentioned factors, and the findings recorded on three points of determinations, it is hereby held that firstly the procedure adopted by the learned trial Court, while framing charge against the petitioner, without recording of pre-charge evidence, is not in conformity with the laid down law and procedure, and secondly, the factual matrix of the instant case makes it abundantly clear that the learned trial Court while passing the order of framing of charge, i.e. order dated 09.02.2023, treated the instant case to be a case instituted on police report, whereas it should have been treated to be a case instituted on private complaint. In fact, in the instant case, the procedure meant for warrant case trial, instituted otherwise than on a police report, should have been adopted by the learned trial Court but it has not followed the abovesaid procedure. Thus, it is hereby held that without recording the pre-charge evidence any charge could not have been framed against the petitioner.

29. In addition to above, the allegations against the petitioner being



related to the acts having a direct nexus with the discharge of his official duty, without sanction of the State Government the petitioner could not have been prosecuted.

30. As a sequel to above mentioned observations, I hold that the impugned order dated 09.02.2023, passed by the learned trial Court, duly affirmed by the learned Additional Sessions Judge, vide order dated 26.02.2024 are perverse, and therefore, there is need for indulgence and interference in the impugned order by exercising the extraordinary jurisdiction of this Court.

31. Hence the above mentioned orders are hereby set aside, and it is hereby held that without adopting the procedure meant for warrant case trial, and without prior sanction of the competent authority the charge-sheet filed against him is not sustainable. Thus, the order of learned trial Court, whereby charge without sanction has been framed against the petitioner, i.e. the order dated 09.02.2023, is hereby set aside. The learned trial Court is, thus, directed to reconsider the matter with regard to framing of charge in the light of observations made in this judgment. The present petition stands allowed, accordingly.

(SURYA PARTAP SINGH)
JUDGE

Pronounced on:13.10.2025
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No