

2025:PHHC:043307



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

CRR-662-2025

Date of Decision: 11.03.2025

Arshad

...Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Aadil Singh Boparai, Advocate, for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant revision petition against the impugned order dated 1st February 2025 passed by the Court of Sh. Amit Kumar Sharma, Special Judge (under the Prevention of Corruption Act), Nuh, whereby, the trial Court held that a *prima-facie* case for commission of offences punishable under Sections 120-B, 467, 468, 471, 201/120-B of IPC and under Section 13(2) read with Section 13(1) (a) of the Prevention of Corruption Act, 1988 was made out against the petitioner and other accused and they were ordered to be charge sheeted accordingly.

2. Learned counsel for the petitioner vehemently submits that the final report under Section 173 Cr.P.C. was filed against the petitioner and his co-accused, namely, Sajid Hussain, for the

commission of the offences under Sections 120-B, 201, 409, 420, 467, 468 and 471 of IPC and under Sections 13(1)(a) and 13(1)(b) of the Prevention of Corruption Act, 1988 (hereinafter to be referred as '**the PC Act**'). In fact, as per the initial complaint, it was alleged that Shamsher Singh was posted as Executive Engineer, Provincial Division, PWD, Nuh and was the mastermind of the conspiracy for embezzling the money and causing loss to the government exchequer. Even, Shamsher Singh being the Executive Engineer, was the incharge of distributing the toll receipt books and supervisor at the Toll Point, Village Pathredi. However, Shamsher Singh, was not arrayed as accused and rather was mentioned as a witness in the challan. Learned counsel further contends that even as per the final report under Section 173 Cr.P.C., the alleged fake toll receipt books were found at Toll Point Pathredi and no fake toll receipt books were found at the toll points situated in Saundh and Chharauda. However, the trial Court had charged the present petitioner and his co-accused for committing the offences of forgery and criminal conspiracy at Toll Point Saundh and Toll Point Chharauda as well. Learned counsel further contends that Shamsher Singh, Executive Engineer was not arrayed as accused in the present case, even though, he was working as a supervisor of the petitioner and had the active duty of oversee the distribution of toll receipt books and assigning duties to the accused. He further contends that even no *prima facie* case was made out against the petitioner under Sections 13(1)(a) read with Section 13(2)

of the PC Act as no money had been recovered from the petitioner. Even, the prosecution had failed to furnish any evidence to show that any such money was misappropriated by the petitioner.

3. Learned counsel further contends that while framing of charge, no doubt, the Court had the powers to shift and weigh the evidence for the limited purpose of finding out whether or not a *prima facie* case was made out against the accused. In fact, the trial Court was bound to peruse the challan carefully and, thereafter, the Court had to come to the conclusion whether the offence had been made out or not. Even, the trial Court failed to appreciate that there was no evidence to suggest that any forgery was committed at Toll Point Saundh and Toll Point Chharauda, still, the charge has been framed with regard to the said toll points.

4. On advance notice, Mr. Rajinder Kumar Banku, DAG, Haryana, has appeared on behalf of the respondent No.1-State and on instructions from the Investigating Officer submitted that as per the challan, no toll receipt books were found at the toll points of villages Saundh and Chharauda, as per the inspection reports. However, he submits that the record at Toll Point Pathredi was found to be false and fabricated. Apart from that, he submits that the matter had been investigated fairly and impartially and there was sufficient evidence to show the involvement of the petitioner in the crime. Even, the receipt books regarding the collection of toll at Toll Point Pathredi were

found to be forged and fabricated and the petitioner and his co-accused had caused huge loss to the State exchequer. Thus, the petitioner has been rightly charge sheeted under Sections 13(1)(a) and 13(2) of the PC Act.

5. I have heard learned counsel for the parties and perused the record carefully.

6. From a perusal of the charge sheet (Annexure P-1), it is apparent that the present petitioner has been charged for the offence under Sections 467/120-B, 468/120-B, 471/120-B IPC and Section 120-B IPC by alleging that the petitioner and his co-accused had hatched a criminal conspiracy and had forged the toll collection receipts of Toll Points, Pathredi, Saundh and Chharauda, whereas it is apparent from the challan that the toll collection receipts of Toll Points at Saundh and Chharauda were not forged and only toll collection receipts of Toll Point Pathredi were forged and fabricated by the accused in the present case. Even, the learned State counsel submits that the toll plaza receipts of Toll Point Saundh and Chharauda were not found to be forged and fabricated. Thus, there was an error in the charge sheet and the same is liable to be set-aside on this short ground alone. Thus, I find myself in complete agreement with the submissions made by learned counsel for the petitioner and the impugned order and charge sheet dated 01.02.2025 are set-aside and the case is remitted back to the trial Court to consider the matter

afresh for the purpose of framing of charge against the petitioner and his co-accused.

7. Needless to observe that the trial Court shall take into consideration the incriminating evidence collected by the police during the course of investigation and shall provide opportunity of hearing to both the sides in the present case.

8. Since, the FIR in the present case was registered on 16.09.2022, it is expected that the proceedings before the trial Court shall be concluded in an expeditious manner.

11.03.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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