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

(101)

CWP-9005-2019

Date of decision:- 07.08.2025

RAJ KUMAR YADAV

... PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jagdeep Singh Rana, Advocate and
Mr. Arvind Kumar Bangar, Advocate
for the petitioner.

Mr. Aakash Singla, Additional Advocate General, Haryana
for respondents No.1 and 2.

Ms. Anju Bansal, Advocate
for respondent No.3.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Articles 226/227 of the Constitution of India *inter-alia* for issuance of a writ, in the nature of mandamus, directing the respondents to grant compensation to the petitioner for false implication and confinement in FIR No.4 dated 09.01.2014, Annexure P-1, lodged under Sections 7 and 13 of the Prevention of Corruption Act, 1988 (for short "the P.C. Act") at Police Station State Vigilance Bureau, Hisar and to initiate appropriate proceedings against the investigating officer in terms of the directions contained in order dated 18.01.2017, Annexure P-2, passed by the learned Additional Sessions Judge, Hisar.

2. Brief facts leading to the filing of the petition are being enunciated. Petitioner was working as a Mining Engineer in the Department of Geology.

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He was named as an accused in FIR, Annexure P-1, registered at the instance of Suresh Kumar on the allegation that he had impounded a tractor trolley and had demanded a bribe of Rs.50,000/- from the complainant for releasing it. It was alleged that Suresh Kumar was told to pay an amount of Rs.50,000/- to the petitioner, against which a receipt of Rs.5,000/- / Rs.7,000/- would be given and the balance amount would be retained by the petitioner. Complainant approached the Vigilance Department, who laid a trap. Petitioner was arrested while accepting bribe and some currency notes were recovered from his possession. Upon investigation, chargesheet was filed against the petitioner, who was prosecuted and petitioner was acquitted by the learned Additional Sessions Judge vide judgment, Annexure P-2. Complainant and State of Haryana filed separate appeals before this Court, which were dismissed vide order dated 10.12.2018, Annexure P-3.

3. Counsel for the petitioner has invited the attention of the Court to the observations made by the Trial Court in its judgment, Annexure P-2, as well as by this Court in its order, Annexure P-3, to urge that petitioner was falsely implicated and the Court directed that the role of the investigating officer be enquired into. Counsel submits that on conclusion of the investigation, an FIR has been registered against the investigating officer, which establishes the malicious prosecution of the petitioner. Counsel emphasis that the petitioner has an impeccable reputation and his image has been tarnished in the society because of the false prosecution and detention from 09.01.2014 to 12.02.2014, when he was released on bail. Placing reliance upon **D.K. Basu Versus State of West Bengal (1997) 1 SCC 416; Bhim Singh, MLA Versus State of Jammu and Kashmir and others, (1985) 4 SCC 677** as well as **Pankaj Kumar Sharma Versus Government of NCT of Delhi and others, 2023**

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NCDHC 7245, counsel asserts that the petitioner is entitled to be compensated as he underwent the agony of trial from January, 2014 till his acquittal in 2017.

4. Petition has been contested by the official respondents as well as the investigating officer by filing separate responses. In their written statement, official respondents No.1 and 2 have stated that after the decision of the High Court, a vigilance enquiry was conducted and its final report was sent to the Chief Secretary, Government of Haryana, Vigilance Department on 05.12.2019, which was accepted. FIR No.2 dated 21.07.2020 has been registered against Phool Singh, Deputy Superintendent of Police (Retd.)/respondent No.3 under various provisions of the IPC as well as under Section 13 (1) (d) of the P.C. Act at Police Station State Vigilance Bureau, Hisar and investigation is being conducted. It has been submitted that petitioner was caught red handed in a trap laid with prior permission. A search of the accused was conducted in the presence of a Duty Magistrate and recovery of tainted currency notes was effected. It has been stated that petitioner was prosecuted after sanction was received from the appointing authority. An objection has been raised by the official respondents that mere acquittal in a criminal case does not given a right to the petitioner to seek compensation. In his separate response, respondent No.3 has submitted that the writ petition raises disputed questions of fact and is not maintainable. It has been asserted that the petitioner was arrested while accepting bribe. This amount is stated to be lying unclaimed in the government treasury. Allegation of malicious prosecution has been specifically denied. Reference has also been made to the complaint dated 09.01.2014, Annexure R-3/1, submitted by the complainant as well as to the sanction dated 21.03.2014, Annexure R-3/2, accorded by the department to prosecute the petitioner under the P.C. Act.

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Counsel appearing for the respondent(s) have opposed the petition by urging that the petitioner has a remedy of filing a civil suit for damages and the instant writ petition is not maintainable. While denying the allegation levelled against respondent No.3, it has been contended that grant of sanction to prosecute under Section 19 of P.C. Act, is a sufficient safeguard from false implication.

5. I have heard counsel for the parties and considered their submission, besides examining the documents appended with the pleadings.

6. There is no dispute about the factual position. A complaint, Annexure R-3/1, was given by Suresh Kumar, an agriculturist, to the effect that on 03.01.2014, his tractor trolley was impounded by petitioner, who demanded a bribe for its release. The complaint was processed and after getting requisite permission from the District Magistrate, a trap was laid and a raid was conducted. A Naib Tehsildar was deputed as Duty Magistrate and a recovery of Rs.25,000/- was effected from petitioner in the presence of a shadow witness. FIR, Annexure P-1, was registered against the petitioner under the provisions of the P.C. Act and the investigation was conducted. On the basis of the material supplied and after being *prima facie* satisfied, Government of Haryana, issued order sanctioning prosecution of the petitioner for offences under the P.C. Act vide order dated 21.03.2014, Annexure R-3/2. Petitioner was arrested at the time of the raid and was subsequently released on bail. Petitioner was charge-sheeted by the Trial Court and after a trial, he was acquitted vide judgment, Annexure P-2, whereby it was directed as under:-

“30. From the above discussion, this Court does not feel any hitch to acquit the accused and to hold that he was falsely implicated in this case. In the fitness of things, the interest of justice also demands that enquiry should be conducted through the higher police officers, so that such type of cases are not repeated and the innocent persons are not dragged in



the criminal cases at the hands of the police. Accordingly, it is ordered that a copy of this judgment be sent to DGP, Haryana with directions that matter may be investigated through some higher police officer, so that the role of the investigating officer of the case in false implication of the accused can be unearthed and it can also be enquired how the vehicles impounded on 03.01.2014 were released on 10.01.2014 without making payment of penalty to the Government. The accused is accordingly acquitted from the charges framed against him. Bail bonds and surety bonds stand discharged. Case property is ordered to be dealt with as per rules after the expiry of period of appeal/revision, if any. File be consigned to record room after due compliance.....”

7. Leave to appeal filed by the State as well as the complainant were dismissed by the High Court vide order, Annexure P-3. A vigilance enquiry was initiated and on the basis of its report, after getting necessary permission, an FIR has been registered against respondent No.3, which is being investigated.

8. Claiming that he was falsely implicated and prosecuted in a criminal case, which has resulted in his acquittal, petitioner asserts that he is entitled to compensation from the respondents. In order to establish that he was falsely implicated and maliciously prosecuted, petitioner has to establish that:

- (i) he has been prosecuted of a criminal charge;
- (ii) that the prosecution has resulted in his acquittal;
- (iii) that the prosecution was done maliciously;
- (iv) that there was in absence of a reasonable and probable cause for such prosecution; and
- (v) that the petitioner has suffered damage as a consequence thereof.

9. In order to succeed in a claim for compensation, petitioner has to satisfy all the above-mentioned five conditions. No doubt in the present case, the first two conditions stand satisfied. However, the onus to establish that



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petitioner was prosecuted without any reasonable or probable cause or that the prosecution was malicious and that the petitioner has suffered damages, is on the petitioner. Mere acquittal in a criminal case after trial cannot, lead to the presumption that petitioner was prosecuted without any cause or that the prosecution was actuated with malice. Mere failure to prove a case beyond shadow of doubt does not *ipso facto* establish malicious prosecution or false implication. Ingredients for seeking compensation under any of the aforesaid categories are not only required to be pleaded, but are also to be proved. Burden of proof rests heavily on the petitioner, which can only be discharged by leading evidence before a civil court. Writ petition is not the remedy available to the petitioner to claim compensation, even though the Trial Court has made an observation that he has been falsely implicated.

10. In **Burmah Construction Co. Versus State of Orrisa and others, 1961 SCC Online SC 26**, a Constitution Bench of the Supreme Court has opined that High Court normally does not entertain a petition under Article 226 of the Constitution of India to enforce a civil liability arising out of a breach of contract or a tort or to pay an amount of money due to the complainant. Supreme Court has observed that it is left open to the aggrieved party to agitate the question in a civil suit filed for that purpose. It cannot be disputed that petitioner has been prosecuted on the basis of the charges framed against him in a FIR registered under the P.C. Act, though it resulted in his acquittal. He, therefore, cannot claim that he has been illegally detained or prosecuted. The judgments, upon which he has placed reliance, cannot come to his aid. The acquittal of the petitioner and the observations of the Trial Court cannot lead to an inevitable conclusion that the prosecution was malicious as to justify the grant of compensation. Petitioner is required to substantiate the

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necessary ingredients mentioned above in order to succeed in a claim for compensation for which purpose he has to file a civil suit and writ petition is not the remedy available to him.

11. For the afore-going reasons, this Court is of the view that the claim for compensation in the present proceedings by invoking the extraordinary powers of this Court cannot be accepted.

12. Writ petition is **dismissed** as not maintainable. It has, however, clarified that rejection of this petition shall not be construed as an expression of opinion on the merits of the claim and in case the petitioner chooses to take recourse to the remedy available to him under the civil law, the same shall be decided on the basis of the evidence led by the parties without being influenced by any observation made hereinabove.

(SUVIR SEHGAL)
JUDGE

07.08.2025

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No