



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

261

CRM-M-30190-2022 (O&M)

Reserved on : 03.03.2025

Date of Decision: 12.03.2025

R.K. Sekhri

...Petitioner

Vs.

Enforcement Officer, Central Board of Trustees EPFO ...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present: Mr. Vivek Salathia, Advocate for the petitioner.

M. Rajesh Hooda, Advocate for the respondent.

H.S. GREWAL, J.

1. This petition has been filed under Section 482 of the Cr.P.C. for quashing of criminal complaint bearing COMI No.37 of 2018, dated 09.02.2018 (CNR No.PBGDA10003442018) under Sections 405, 406, 409 of the IPC, titled as Enforcement Officer, Central Board of Trustees (EPFO) vs. R.K. Shekhri and summoning order dated 11.04.2018 and all other consequential proceedings arising thereto.

2. The facts as germane from the record are that the petitioner's establishment is a sole proprietorship concern having a number of skilled/unskilled workers and employees for the smooth functioning of the establishment. However, due to certain financial exigencies and uncertainties, the establishment of the petitioner became non-functional entity and was fighting for its survival. In the month of September, 2013, the petitioner received summons U/s 7-A of the EPF & MP Act, 1952 for the assessment proceedings for the period from April, 2008 to July, 2013 and without



conducting an independent enquiry, the respondent passed assessment order dated 29.04.2016 (Annexure P-3).

3. The aforesaid assessment order was challenged by the petitioner by filing review application U/s 7-B of the Act but the decision of the same was never communicated to the petitioner. In the interregnum, the respondent issued show cause notices dated 08.06.2017 and 18.02.2021 demanding a sum of Rs.7,58,702. In response thereto, the petitioner submitted reply mentioning that an amount of Rs.7,39,412/- has already been deposited under protest despite the review application is still sub-judice.

4. Although the review application was pending, the respondent simultaneously filed the impugned criminal complaint against the petitioner, wherein, the learned trial Court vide order dated 11.04.2018, opted to summon the petitioner by treating it as a summary trial.

5. Learned counsel for the petitioner submitted that a patent illegality has been committed by the learned trial Court while passing the impugned summoning order as the approach adopted by the learned trial Court in treating the complaint as a summary trial runs contrary to the statutory mandate of Chapter XIX of the Cr.P.C. 1973. Learned counsel further submitted that the assessment order has already been challenged by the petitioner before the higher authorities, wherein, stay has been granted in favour of the petitioner and under such circumstances, there was no occasion with the respondent to file complaint against the petitioner.

6. *Per contra*, counsel for the respondent submitted that no explanation has been given by the petitioner as to why the dues of the employees towards provident fund were not deposited within time and



deposition of the same later on, would not absolve the petitioner from criminal liability.

7. I have considered the submissions of rival parties and have gone through the record carefully.

8. From the record, I find that the learned trial Court while passing the impugned order dated 11.04.2018, has categorically held that there is no need to record preliminary evidence as the present case is in the nature of summary trial. It is submitted that the approach of the learned trial Court in treating the impugned complaint as a summary trial is against the statutory mandate of Chapter XIX of the Code of Criminal Procedure, 1973. Since the offences invoked against the petitioner are punishable with sentence exceeding two years, therefore, the aforesaid complaint would fall within the category of warrant case as defined under Section 2(x) of the Cr.P.C.

9. It is also apparent that the impugned order has been passed by the learned trial Court without recording any finding. In the recent judgment of **J.M. Laboratories and others vs. State of Andhra Pradesh and another** SLP (Criminal) No.5067 of 2024, decided on 30.01.2025, the Hon'ble Supreme Court has held as under:-

'Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto.'

10. In the present case, what to talk of discussion of applicability of law on the issue, even no findings have been recorded by the learned trial Court while passing the summoning order. More so, it has also been stated by



the counsel for the petitioner that the assessment order which has been made the basis for summoning the petitioner, has already been stayed by the authorities.

11. Be that as it may, the impugned order *sans* recording of finding and treating the same to be a summary trial, cannot be said to be valid and legal and is accordingly liable to be set aside.

12. In view of the above, the instant petition is allowed. The impugned order dated 11.04.2018, is set aside and the matter is remanded back to the learned trial Court with a direction to firstly call for preliminary evidence and proceed with the matter afresh and if summoning is required, then it may proceed as per law.

(H.S. GREWAL)
JUDGE

12.03.2025

poonam

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No