



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

119

CRR-1626-2024 (O&M)
Date of decision: 22.01.2025

Kasinathan Lakshmi Srinivasan

.....Petitioner

Versus

Central Bureau of Investigation

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vipul Sharma, Advocate for the petitioner.

MANJARI NEHRU KAUL, J.

1. The petitioner is impugning the order dated 27.05.2024 passed by learned Special Judge, CBI, Panchkula, whereby the petitioner has been charged for offences under Sections 120-B of the IPC, Sections 7, 8, 9 and 10 of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act') in case FIR/RC No.2172022A0001 dated 31.01.2022 under Sections 120-B of the IPC, Sections 7, 8, 9 and 10 of the PC Act, registered at Police Station SPE/CBI/AC-II.

2. Learned counsel for the petitioner has submitted that the petitioner is the CEO and former Director of GECPL (the accused company). It has been contended that an FIR dated 13.07.2021, was initially registered against co-accused, Harjeet Singh Puri, on allegations of receiving illegal gratification for expediting payment of pending claims and bills of private companies including the accused company. Co-accused, Sunil Mendiratta, an employee of the accused company, allegedly assured co-accused Harjeet Singh Puri, the then



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General Manager of NHPC, that Rs.5 lakhs would be delivered to his residence.

3. Learned counsel has highlighted that the petitioner was cited as a prosecution witness in the said FIR, and his statement under Section 161 of the Cr.P.C. was recorded. However, subsequently a second FIR (FIR in question) was registered, alleging that the petitioner along with other co-accused, paid Rs.15 lakhs to co-accused Harjeet Singh Puri, for expediting the release of arbitral award payments of two projects due to accused company, pending with NHPC.

4. Learned counsel for the petitioner has contended that the arbitral award payments were governed by Niti Aayog Guidelines, leaving no discretion with the NHPC. Additionally, it has been argued that accused company is undergoing corporate debt restructuring (CDR), and all payments made to the company directly benefit lenders. Hence, it is unreasonable to suggest that the petitioner would pay a bribe for funds that would not benefit him directly.

5. It has, therefore, been submitted that the learned Trial Court failed to notice inconsistencies in the case of the prosecution while framing charges rendering the order unsustainable.

6. Notice of motion.

7. On asking of the Court, Mr. Akashdeep Singh, Special Public Prosecutor, CBI, accepts notice on behalf of the respondent-CBI.

8. Learned standing counsel for the CBI has vehemently opposed the prayer and submissions made by the counsel opposite. It has been submitted that the two FIRs pertain to separate transactions



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involving different individuals and events. During the investigation, a memory card recovered from the mobile phone of co-accused Harjeet Singh Puri, revealed evidence of a separate demand of bribes involving the petitioner.

9. It has been further contended that audio recordings between the petitioner, co-accused Harjeet Singh Puri, and other employees of the accused company conclusively established the involvement of the petitioner in facilitating the bribe payment. Further, the evidence collected during the investigation, prima facie substantiate the allegations against the petitioner, warranting the framing of charges under Sections 7, 8, 9 and 10 of the PC Act, and hence, the impugned order cannot be faulted with and does not warrant any interference.

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

11. Before proceeding further, it would be relevant to reproduce Sections 8, 9 and 10 of the PC Act, which read as under:-

“8. Offence relating to bribing of a public servant.

(1) Any person who gives or promises to give an undue advantage to another person or persons, with intention-

(i) to induce a public servant to perform improperly a public duty; or

(ii) to reward such public servant for the improper performance of public duty;

shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both:

Provided that the provisions of this section shall not apply where a person is compelled to give such undue advantage:

Provided further that the person so compelled shall report the matter to the law enforcement authority or



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investigating agency within a period of seven days from the date of giving such undue advantage:

Provided also that when the offence under this section has been committed by commercial organisation, such commercial organisation shall be punishable with fine.

Illustration. - A person, 'P' gives a public servant, 'S' an amount of ten thousand rupees to ensure that he is granted a license, over all the other bidders. 'P' is guilty of an offence under this sub-section.

Explanation. - It shall be immaterial whether the person to whom an undue advantage is given or promised to be given is the same person as the person who is to perform, or has performed, the public duty concerned, and, it shall also be immaterial whether such undue advantage is given or promised to be given by the person directly or through a third party.

(2) Nothing in sub-section (1) shall apply to a person, if that person, after informing a law enforcement authority or investigating agency, gives or promises to give any undue advantage to another person in order to assist such law enforcement authority or investigating agency in its investigation of the offence alleged against the later.

9. Offence relating to bribing a public servant by a commercial organisation.

(1) Where an offence under this Act has been committed by a commercial organisation, such organisation shall be punishable with fine, if any person associated with such commercial organisation gives or promises to give any undue advantage to a public servant intending-

(a) to obtain or retain business for such commercial organisation; or

(b) to obtain or retain an advantage in the conduct of business for such commercial organisation:

Provided that it shall be a defence for the commercial organisation to prove that it had in place adequate procedures in compliance of such guidelines as may be prescribed to prevent persons associated with it from undertaking such conduct.

(2) For the purposes of this section, a person is said to give or promise to give any undue advantage to a public servant, if he is alleged to have committed the offence under section 8, whether or not such person has been prosecuted for such offence.

(3) For the purposes of section 8 and this section,-



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(a) *"commercial organisation" means-*

(i) a body which is incorporated in India and which carries on a business, whether in India or outside India;

(ii) any other body which is incorporated outside India and which carries on a business, or part of a business, in any part of India;

(iii) a partnership firm or any association of persons formed in India and which carries on a business whether in India or outside India; or

(iv) any other partnership or association of persons which is formed outside India and which carries on a business, or part of a business, in any part of India;

(b) "business" includes a trade or profession or providing service;

(c) a person is said to be associated with the commercial organisation, if such person performs services for or on behalf of the commercial organisation irrespective of any promise to give or giving of any undue advantage which constitutes an offence under sub-section (1).

Explanation 1. - The capacity in which the person performs services for or on behalf of the commercial organisation shall not matter irrespective of whether such person is employee or agent or subsidiary of such commercial organisation.

Explanation 2. - Whether or not the person is a person who performs services for or on behalf of the commercial organisation is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between such person and the commercial organisation.

Explanation 3. - If the person is an employee of the commercial organisation, it shall be presumed unless the contrary is proved that such person is a person who has performed services for or on behalf of the commercial organisation.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) the offence under sections 7A, 8 and this section shall be cognizable.

(5) The Central Government shall, in consultation with the concerned stakeholders including departments and with a view to preventing persons associated with commercial organisations from bribing any person, being a public



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servant, prescribe such guidelines as may be considered necessary which can be put in place for compliance by such organisations.

10. Person in charge of commercial organisation to be guilty of offence.

- Where an offence under section 9 is committed by a commercial organisation, and such offence is proved in the court to have been committed with the consent or connivance of any director, manager, secretary or other officer shall be of the commercial organisation, such director, manager, secretary or other officer shall be guilty of the offence and shall be liable to be proceeded against and shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation. - For the purposes of this section, "director", in relation to a firm means a partner in the firm."

12. It is a well settled principle of law that at the stage of framing charges, the Court is not required to delve into the probative value of evidence or conduct a mini-trial. The purpose is to determine whether the material collected by the investigating agency, if taken at face value, discloses the essential ingredients of the alleged offence. It has been held by Hon'ble the Supreme Court in ***State of Tamil Nadu Vs. N. Sureshraj and others :2014 AIR SCW 924*** that at this stage, the Court must assume the prosecution's evidence to be true and ascertain whether a prima facie case is made out. In ***State of Maharashtra Vs. Somnath Thapa : 1996 AIR (SC) 1744***, it was emphasized by Hon'ble the Supreme Court that the framing of charges only requires the Court to assess the existence of grounds for proceeding to trial, without weighing the evidence as would be done at the stage of trial.

13. Adverting to the present case, the report filed under

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Section 173(2) of the Cr.P.C. by the investigating agency, coupled with the audio recordings and other documentary evidence, prima facie establishes the role of the petitioner in facilitating the alleged payments of bribe. The material collected points to the petitioner's involvement in the transactions, corroborating the allegations levelled against him.

14. The arguments by the learned counsel for the petitioner regarding the absence of discretion in NHPC's execution of arbitral awards and the direct benefit of payments to lenders under CDR are matters of defence. Such issues cannot be adjudicated upon at the stage of framing charges but must be tested during the trial.

15. The contention of the learned counsel for the petitioner that the two FIRs overlap is also unfounded, as it has not only been submitted by learned standing counsel for the CBI but also demonstrated that they pertain to distinct transactions involving different events, individuals, and circumstances.

16. The power to quash criminal proceedings or discharge an accused should be exercised sparingly and only in exceptional cases. At the stage of framing charges, the Court must determine whether the material on record discloses a prima facie case, without delving into the credibility or sufficiency of the evidence. The learned Trial Court has rightly framed charges against the petitioner based on the material presented by the prosecution in the challan, which discloses sufficient grounds to proceed to trial. Further, learned counsel for the petitioner has failed to demonstrate any fundamental flaw in the case of the prosecution or any irregularity in the order of the learned Trial Court



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warranting interference. The allegations and evidence against the petitioner prima facie disclose the commission of the alleged offence, which requires adjudication during trial. Accordingly, the instant revision petition is hereby dismissed.

17. 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.

18. Pending applications, if any, stand disposed of.

22.01.2025

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

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