



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

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**LPA-2825-2025 (O&M)
Decided on : 23.09.2025**

SUNIL KUMAR

. .Appellant

Versus

STATE OF PUNJAB AND OTHERS

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

PRESENT: Mr. Dhirinder Kamal Saldi, Advocate for the appellant.

Mr. TPS Chawla, Sr. DAG, Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present appeal, the challenge is to the order dated 05.09.2025 passed by the learned Single Judge, by which the civil writ petition bearing CWP No. 26242 of 2025 filed by the appellant challenging the order dated 22.08.2025 (Annexure P-2) by which, the State of Punjab has recommended to get an FIR registered with regard to the allegations of embezzlement against the appellant during the period i.e. 2008-2013 when he was Sarpanch of the Village Gram Panchayat, Rangeelpur, District Rupnagar, which is arbitrary and illegal.

2. Learned counsel for the appellant submits that once under Section 216 of the Punjab Panchayati Raj Act, 1994 (herein after referred to 'the 1994 Act'), no action can be taken and the jurisdiction to recommend



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the registration of an FIR, also does not exist with the State which fact has been ignored by the learned Single Judge while dismissing the writ petition qua the challenge raised by the appellant qua the order dated 22.08.2025.

3. Keeping in view the advance copy given, learned State counsel appears and submits that only the directions to register an FIR against the appellant and to investigate the matter is being given to the police qua the allegations of the embezzlement for the period when the appellant was the Sarpanch i.e. 2008-2013 of the village concerned and in case, the appellant has any explanation or any grievance, the same can be raised as and when the FIR gets registered especially when even as of now, till date no FIR has been registered so far, though, the same was recommended by the State.

4. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

5. The first argument which has been raised by the learned counsel for the appellant is with regard to the jurisdiction of the State to recommend the registration of the FIR qua the allegations of embezzlement during the period when the appellant was Sarpanch i.e. 2008-2013.

6. For the sake of convenience, the Section 216 of the 1994 Act is as under:-

“216. Liability of members of Panchayat. (1) Every member of a Panchayat shall be liable for the loss, waste or misapplication of any money or property belonging to the Panchayat, if such loss, waste or misapplication is a consequence of his neglect or misconduct while such member and shall also be liable to pay interest at the prescribed rate, from the date of loss, waste or misapplication, on the amount



assessed under subsection (2) or sub-section (3) as the case may be.

(2) The Block Development and Panchayat Officer concerned may, on the application of a Gram Panchayat or otherwise, and after giving the member concerned an opportunity to explain, assess, by order, in writing the amount due from him in account of such loss, waste or misapplication; Provided that –

(a) (a) where such member happens to be the Chairman or a member of the Panchayat Samiti, the proceedings under this subsection shall be taken by the District Development and Panchayat Officer;

(b) (b) where such member happens to be the Chairman, ViceChairman or a member of the Zila Parishad, the proceedings under this sub-section shall be taken by the Deputy Director.

(3) Any person aggrieved by an order made under sub-section (2) may within a period of thirty days from- the date of such order, appeal to: -

(a) (a) the District Development and Panchayat Officer, if the order has been made by the Block Development and Panchayat Officer;

(b) (b) the Deputy Director, if the order has been made by the District Development and Panchayat Officer; and

(c) (c) the Director, if the order has been made by the Deputy Director; and on appeal being filed, the appellate authority may suspend the execution of the execution of the order upon such terms as to costs, payments of the amount involved or otherwise as he thinks fit and subject to the result of appeal, if any, the order of Block Development and Panchayat Officer, District Development and Panchayat Officer and the Deputy Director, as the case may be, shall



be final.

(4) Notwithstanding anything contained in this section no person shall be called upon to explain why he should not be required to make good any loss, after the expiry of four years from the occurrence of the loss, waste or misapplication or after the expiry of two years from his ceasing to be a member, whichever is later.

(5) The State Government may call and examine the record of any order made under this section for the purpose of satisfying itself as to the legality and propriety of such order and may confirm, modify or rescind such order; Provided that no order prejudicial to any person shall be made by the State Government, unless that person has been afforded a reasonable opportunity of showing cause against the proposed order.

(6) The amount assessed as due from a member may, in the event of his death, be recovered from his legal heirs to the extent of property inherited by them from such member. ”

7. A bare perusal of the above reproduction of the Section 216 of the 1994 Act would show that the members of the Panchayat will be liable for the loss, waste or misapplication of any money or the property belonging to the Panchayat and if loss, waste or misapplication is consequence of neglect or misconduct of a person while being a member, the same can be recovered alongwith interest.

8. The clause (4) of Section 216 of the Act submits that no person shall be called on to explain why he should not be required to make good any loss, after the expiry of four years from the occurrence of the loss, waste or



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misapplication or after the expiry of two years from the said member ceasing to be a member, whichever is later.

9. It may be noticed that it is only the loss which cannot be recovered after expiry of four years from occurrence of loss or after expiry of two years from ceasing to be a member but nothing comes that even the criminal action cannot be taken in case there is an embezzlement or there is a criminal misconduct on the part of the member while performing the duties of being a member of Gram Panchayat, which will also be covered under Section 216 (4) of the 1994 Act.

10. Learned Single Judge while passing the impugned order dated 05.09.2025, has rightly appreciated the said provisions to hold that only the recovery part is to be taken care of by Section 216 (4) of the 1994 Act in case of any loss, but the same does not give a jurisdiction to such member of the Panchayat to claim immunity from the criminal action in case, the allegations are of misappropriation which are covered under the Indian Penal Code 1860 (herein after referred to 'the IPC') or Bhartiya Nyaya Sanhita, 2023 (herein after referred to 'the BNS').

11. Keeping in view the above, the order passed by the learned Single judge as well as the recommendation of the State to refer the matter to the investigating agency, to investigate the criminal aspect of the incident that whether the appellant has violated any provisions of law so as to liable for punishment under the provision of the IPC or the BNS as the case may be.

12. The argument of the learned counsel for the appellant is that the recommendation of registration of the FIR against the appellant is being



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made after a period of more than one decade and limitation to recommend the such action does not exist. It may be noticed that the allegations levelled against the appellant are of embezzlement which carry a punishment of more than three years in case the same is proved hence, there is no limitation provided to initiate the criminal action against such member.

13. Further, no such provisions have been brought to the notice of this Court that the allegations of misappropriation cannot be investigated by the police after a particular period of time.

14. Learned counsel for the appellant relies upon the judgment passed by this Court in LPA No. 1521 of 2011, titled as ‘ **Gurdial Singh and others versus State of Punjab and others**, decided on 02.04.2012. It may be noticed that the said judgment passed in **Gurdial Singh’s case (supra)** is not applicable in the facts and circumstances of the present case as in **Gurdial Singh’s case (supra)**, the departmental enquiry was initiated by the Government contrary to the provisions of Section 216 (4) of the 1994 Act which was held to be bad.

15 It may be noticed that in the case of the appellant also, the competent court of law has already given a verdict that no proceedings under Section 216 (4) can be undertaken against the appellant for the recovery of the any loss, but the same does not deal with the investigation into the criminal aspect whether the said act of embezzlement will not invite the provision of the IPC or the BNS as the case may be.

16. Learned counsel for the appellant further argues that the order which has been impugned dated 22.08.2025 is also with regard to the same incident. It may be noticed that a particular incident can invite the

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departmental proceedings as well as criminal proceedings which have different aspect. Merely that departmental proceedings cannot be initiated does not mean that even the criminal proceedings cannot be initiated in case the same is permissible under law.

17. Keeping in view the totality of the facts and circumstances and as no perversity has been shown to this Court with the order dated 05.09.2025 passed by the learned Single Judge that the same is contrary to the facts or the settled principle of law, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

18. Accordingly, the present appeal is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

23.09.2025*Riya**Whether speaking/reasoned:* *Yes/~~No~~**Whether Reportable:* *~~Yes~~/No*