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(272)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9488-2020

Date of Decision: 19.08.2025

RADHEY SHAYAM

... Petitioner

Versus

BHARTI DABAS & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Munish Mittal, Advocate
for the petitioner.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 27.09.2017 (Annexure P-2) passed by the JMIC, Indri and order dated 29.08.2019 (Annexure P-4) passed by the Addl. Sessions Judge, Karnal whereby the Criminal Complaint No.216 of 2015 dated 27.05.2014 titled as *Radhey Shyam Vs. Smt. Bharti Dabs & others* of the petitioner has been dismissed.

2. The brief facts/allegations as emanating from the complaint are that on 28.07.2012, a Mahindra tractor bearing registration no.HR-05Q-1240 with motorcycle bearing registration no.HR-05E-3545 were taken into possession by ASI Shamsher Singh in FIR No.278 dated 28.07.2012 vide recovery memo, in which it was shown that the tyres of the tractor were deflated and the body, filter etc. of the tractor were broken and the same was taken into possession in the presence of EASI Rishi Pal. The tractor was



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never examined by any mechanical expert. No entry was made by MHC Rajbir and MHC Sunil in the rapat roznamcha of police station Indri on 28.07.2012 regarding recovery of tractor and motorcycle nor any entry was made in register no.19. On 12.08.2013, an application for releasing the aforesaid Mahindra tractor was filed by the complainant and on 30.09.2013, intentionally an incorrect report was prepared by ASI Daljeet Singh in connivance with motor mechanic Rishipal and the same was filed in the court with mechanical examination report dated 28.07.2012 and ASI Daljeet Singh made his report not to release the tractor on superdari. On 19.11.2013, the application of the complainant was dismissed by the court of Ms. Tarannum Khan by giving reason of committal of the case to the court of Session and of non-maintainability. On 26.11.2013, he again filed an application for superdari before the court of Shri A.K. Bishnoi and subsequently release order was issued and forward to SHO. On 25.12.2013, the tractor was examined at Police station Indri before releasing by the Works Manager of Bala Ji Tractors in the presence of police officials of P.S. Indri and an estimate of damaged item was prepared by him. The video recording of the said tractor was also done and the photographs were also taken on 23/25.12.2013 by the complainant-Radhey Sham in the presence of MHC Ashok Kumar and other persons before receiving the said tractor. When the condition of tractor was compared with the photographs submitted by SI Depender Rana and supplied by the court to the complainant items were found deficient i.e. battery, starting assembly and drawbar. When the



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complainant requested to SHO, police station Indri to release the tractor by mentioning the deficiency of the battery, starting assembly and drawbar in the rapat roznamcha as well as in register no.19, he refused to do so. Thereafter, on 25.12.2012, at the time of receiving the tractor bearing no.HR-05Q-1240 the complainant filed a written complaint regarding damages and deficiency to SHO, police station Indri for taking appropriate legal action against police officials and other concerned persons. But no action was taken. Then, the complainant moved complaints to S.P. Karnal through E-mail and to DGP Haryana, Shri Abhishek Garg, SP Karnal through registered post for taking legal action against the accused persons. Subsequently an enquiry was marked to DSP Baljinder Singh, DSP Indri and the enquiry was sent for legal opinion to DDA, S.P. Karnal, whereupon the DDA raised some objections on the enquiry report, but instead of removing the objections, accused no.2 Baljinder Singh prepared a forged and fabricated report and forwarded the same to SP. Karnal and gave a clean chit to all the accused and no action was initiated because of the complaint was filed.

3. The complainant examined Ct. Pardeep Kumar as CW1, HC Devender Kumar as CW2, Mohit Rawal as CW3, HC Sandeep Kumar as CW4, Kapil Kumar as CW5, Mukesh Kumar as CW6, HC Surender Kumar as CW7, HC Ashok Kumar as CW8, Rajinder Kumar as CW9, Sunil Kumar as CW10, complainant himself appeared as CW11, HC Parveen as CW12, Ct. Mukesh Kumar as CW13 and EASI Rishi Parkash as CW14. Thereafter, the complainant tendered some documents and closed the evidence.



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4. Upon hearing the arguments of the complainant, the Trial court dismissed the complaint vide order dated 27.09.2017 (Annexure P2).

5. Feeling aggrieved with the impugned order dated 27.09.2017, the revisionist-complainant preferred a revision petition which came to be dismissed vide order dated 29.08.2019 (Annexure P-4).

6. The aforementioned orders are under challenge in the present petition.

7. The learned counsel for the petitioner contends that the Trial court did not consider the facts, evidence and legal proposition of this case in the proper perspective. As many as 14 witnesses in support of the complaint were examined and all exhibited documents filed with the complaint were proved. The contents of the complaint *prima facie* makes out the various offences. Sanction under Section 197 of Cr.P.C is not required as the offences are of forgery etc. If the ingredients of the offence alleged against the accused are *prima facie* made out in the complaint, the criminal proceeding ought not to be interdicted. From the evidence placed on record it is clear that register no.19 bears the signatures of DSP Bharti Dabas who had never worked as DSP Head Quarter, Karnal. He thus contends that the impugned orders are liable to be set aside and the accused be summoned to face trial.

8. I have heard the learned counsel for the petitioner.

9. The contention of the petitioner that the register No.19 bears the signatures of DSP Bharti Dabas who has never worked as DSP Head Quarter, Karnal cannot be accepted. Dishonest intention is an essential component for commission of offences u/s 464, 466, 467, 468, 471 & 477-A of IPC. There is



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no material evidence placed on record which could show that at the time of inspection of register no.19 DSP Bharti Dabas had any intention to commit forgery or that she was to gain anything by forgery of the document thereby causing a corresponding loss to the accused/petitioner.

10. The contention that when the petitioner obtained the tractor on superdari the same was in damaged condition and some parts of tractor i.e. battery, starting assembly, drawbar were missing is also devoid of any merits because at the time of recovery of tractor by the police, the police nowhere mentioned that the aforesaid parts were missing. The complainant has also failed to prove on record that the aforesaid parts of tractor were missing when he obtained the same on superdari. With regard to this contention the complainant examined CW1 Ct. Pardeep Kumar and CW4 HC Sandeep. However, the statements of both these witnesses reveal that they have not deposed that they had seen the accused persons either damaging the tractor or carrying out body parts i.e. battery etc or misappropriated the same for their personal use. Sunil Kumar deposed that during possession police officers had removed the articles, damaged the tractor, prepared forged documents, but he nowhere deposed that he has seen any of the accused removing any body parts of said tractor or damaging the same. He deposed that a CD was prepared in his presence, but he failed to depose about the name of person who prepared the CD. The complainant has not examined any person who had prepared the CD nor any certificate regarding authenticity of the video recording has been placed on record by the complainant.



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11. So far as the allegations of corruption are concerned the complainant neither in his complaint nor during examination mentioned that the accused persons demanded a bribe from him. The complainant is required to prove that the public servant derived any pecuniary advantage for himself or for any other person. In the present case, no benefit has been derived by any of the accused. Hence, the offences under the Prevention of Corruption Act are also not made out against the accused persons.

12. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

19.08.2025

JITESH

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