

2025:PHHC:001042



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

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**CRM M-65134 of 2024 (O&M)
Date of Decision: 07.01.2025**

Jaswinder Singh ...Petitioner
Versus
State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Uday Pratap Singh, Advocate, for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 528 of the Bhartiya Nagarik Suraksha Sahinta 2023 with a prayer to quash the order dated 16.10.2024 (Annexure P-1) passed by the Court of Shri Bharat, Judicial Magistrate 1st Class, Pehowa, and the FIR No. 219 dated 16.10.2024 under Sections 7 and 13 of the Prevention of Corruption Act, 1988, Police Station City Pehowa (Annexure P-2) and all consequential proceedings arising therefrom.
2. The primary and sole contention raised on behalf of the present petitioner is that the Court of Judicial Magistrate 1st Class, Pehowa, had acted beyond its judicial role by directly participating in the investigation, including the seizure of evidence. Moreover, the FIR has been ordered to be registered by the Judicial Magistrate 1st Class in violation of the provisions of Section 175(3) Cr.P.C. As per

Section 175(3) Cr.P.C., the Magistrate is empowered to order an investigation only after receiving an application supported by an affidavit and after conducting such inquiry as deemed necessary. In the present case, no written complaint or affidavit was filed and the FIR was wrongly ordered to be registered by the Judicial Magistrate 1st Class, Pehowa. Thus, the mandatory procedural safeguard was not adhered to in the present case and the FIR is liable to be quashed by this Court. Still further, the Magistrate had directed the recovery of the evidence, seizure of currency note and the mobile phones and the statements were recorded illegally. He further contends that the petitioner has been maintaining good conduct throughout his career and the FIR has been registered with a malafide intention.

3. I have heard learned counsel for the petitioner at length and perused the record carefully.

4. The FIR in the present case was registered on 16.10.2024. In fact, the Presiding Officer of the Court had noticed that one of the Court staff was unfortunately demanding bribe from an advocate. Consequently, the Court had recorded the statements of the advocate and other officials also, who were present in the Court. Ultimately, on the order of the Court, the FIR was registered in the present case and the same has been reproduced below:-

“Order Today i.e. was conducting Court proceedings, one Advocate namely Sh. Naresh Kumar Saini appeared in the Court and stated that today his bail application is

fixed in FIR No.23/2024 PS Ismailabad U/s 147, 149, 323, 325, 326 and 201 IPC and when his clerk (Munshi) had gone to Sh. Jasvinder Singh, Criminal Ahlmad attached with this Court to put up the file before the Court then, he demanded bribe of Rs.500/- from his clerk. The undersigned asked the Advocate that such things are not possible in Court. However, if the Ahlmad concerned is demanding the bribe then you may hand over the currency note by noting down the number of the currency note. The Advocate noted down the number of the currency note of Rs.500/- as 6ML336910. The clerk of the Advocate went to the Ahlmad room and after some time returned and informed that the Ahlmad concerned had received the bribe. Thereafter, the undersigned called the Ahlmad in the Court and one Inspector/SHO Satish Kumar PS Ambala Cant, who is present in the Court in connection with his evidence in case titled as "State versus Jagtar Singh" was asked to check the pockets of the Ahlmad. During his checking, a currency note of Ra.500/- was recovered from the purse in the back side of trouser of the concerned Ahlmad and he handed over the same to the undersigned and the number of the currency note recovered from the concerned Ahlmad was the same which was the number noted down by the Advocate. The alleged currency note was sealed in separate parcel and handed over to the Reader of this Court to keep the same in safe custody. The concerned Ahlmad was directed to wait in the Court but when the Court become busy in the work, the Ahlmad concerned fled away from the court. The complainant Naresh Kumar Saini and his clerk Sukhwinder Singh

have got recorded their statements before the undersigned regarding their complaint. Thereafter, statement of Prithvi Singh Reader, Kavish Wadhwa Stenographer, Mintu Kumar Naib Court and Inspector/SHO Satish Kumar have been recorded by the undersigned regarding this untoward incident. The mobile phone of the concerned official is also recovered from his room and same is kept in the custody of the Reader From the allegation levelled by the complainant Naresh Kumar Saini and his clerk as well as the facts mentioned above, all these facts shows the commission of cognizable offence under Prevention of Corruption Act, 1988. The Reader of this Court is directed to send the copy of this order along with the statements to the SHO concerned for taking necessary legal action in due process of law. The sealed currency note, Mobile phone of the concerned Ahlmad be handed over to the SHO concerned by the Reader in due process of investigation. Sd Bharat 16.10.2024 Bharat JMIC Pehowa No 419 Dated 16.10.24 forwarded to SHO PS city for necessary compliance.

*Sd- Prithvi Singh dated 16.10.2024
Reader to Bharat, JMIC, Pehowa”.*

5. The only submission raised by the learned counsel for the petitioner is that the FIR has been got registered by the Judicial Magistrate 1st Class, Pehowa, by overlooking the provisions of Section 175 of the BNSS. In fact, the said submission is liable to be rejected out-rightly. Section 210 of the BNSS provides for cognizance

of offence by the Magistrate and the same has been reproduced below:-

Section 210(1) in Bharatiya Nagarik Suraksha Sanhita, 2023

(1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence-

(a) upon receiving a complaint of facts, including any complaint filed by a person authorised under any special law, which constitutes such offence;

(b) upon a police report (submitted in any mode including electronic mode) of such facts;

(c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed”.

6. Section 210(1)(c) of BNSS clearly provides that the Magistrate can take cognizance of any offence upon information received by any person other than a police officer or upon his own knowledge that such offence has been committed. In the present case, the Magistrate had come to know that the offence had been committed in the Court premises itself and he had rightly taken cognizance of the offence. Still further, since the offence was cognizable, he had directed the police to register the FIR and as per the mandatory provisions of Section 173 Cr.P.C., the police was bound to register the FIR. It has been wrongly submitted that the Magistrate was bound to

follow the procedure as prescribed under Section 175 of the BNSS in the facts and circumstances of the present case. Once the Magistrate had noticed the commission of a cognizable offence, he was bound to order the registration of the FIR. Moreover, in the present case, the FIR has been registered only on 16th October 2024 and serious allegations affecting the administration of justice have been levelled in the FIR. The investigation in the present case is at the nascent stage and it would be inappropriate to quash the FIR, at this stage.

7. Thus, finding no merits, the present petition is ordered to be dismissed.

8. CRM 51046 of 2024 also stands disposed off, accordingly.

07.01.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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