



CRM-M-7151-2023 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM-M-7151-2023 (O&M)****Reserved on : 18.02.2026****Pronounced on : 30.04.2026**

M/s Rana Polycot Limited

..... Petitioner

VERSUS

Regional Provident Fund Commissioner & Ors.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Ishnoor Singh, Advocate for the petitioner.

Mr. Samir Rathaur, Advocate for the respondents.

SURYA PARTAP SINGH, J.

This petition under Section 482 of the Criminal Procedure Code has been filed for quashing of order dated 06.08.2022, hereinafter being referred to as 'impugned order' only, passed by the Court of learned Judicial Magistrate First Class Derabassi, hereinafter being referred to as 'trial Court' only. The abovementioned order has been passed in the complaints filed against the petitioner for the commission of offence under Section 14 of 'the Employees' Provident Funds and Miscellaneous Provisions Act, 1952', hereinafter being referred to as 'the Act' only.

3. In nut-shell, the facts emerging from record are that the abovementioned complaints have been filed by the respondent No.3/complainant, i.e. 'Provident Fund Inspector (Enforcement Officer)',

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Office of Regional Provident Fund Organization, Chandigarh, hereinafter being referred to as 'respondent No.3' only. In the abovementioned complaints, it has been alleged by the respondent No.3 that the respondent No.3 has been appointed as Inspector under Section 13 of the Act, and that the provisions of the Act along with Schemes framed therein applied to the establishment known as 'M/s Rana Polycot Ltd.', the petitioner/accused, hereinafter being referred to as 'petitioner' only. According to respondent No.3, Mr. Rana Ranjit Singh, Managing Director of respondent No.3 is the person in-charge of the said establishment, and therefore, responsible for the conduct of business of the establishment.

4. The respondent No.3 further alleged that the petitioner was required to comply with the provisions of the Act, and the scheme framed thereunder, and that under Clause-76 of the 'Employees Provident Fund Scheme, 1952', Clause-8 of the 'Employees' Deposit Linked Insurance Scheme, 1976' and Clause 3 & 4 of the 'Employees Pension Scheme, 1995', the petitioner was required to deposit provident fund contributions for the period April, 2017 to May, 2017, amounting to Rs.2,24,150/- in the Account No.10 with the 'Regional Provident Fund Commissioner, Chandigarh', but the abovementioned amount was not deposited by the accused, even after the due date. According to respondent No.3, since there were adequate circumstances for the imposition of normal punishment of both imprisonment and fine, the sanction for the prosecution of petitioner/accused was accorded by the 'Regional Provident Fund Commissioner, Chandigarh',



vide sanction order dated 19.09.2019. In view of abovementioned allegations, the respondent No.3 approached the Court of learned Judicial Magistrate Derabassi for taking cognizance for the commission of abovementioned offence, and to punish the petitioner for the same.

5. Heard.

6. It has been contended on behalf of petitioner that the prosecution of the petitioner is illegal, unwarranted, contrary to the settled principle of law and unsustainable. It has also been contended by learned counsel for the petitioner that the petitioner received an order under Section 7-A of the Act, for the determination of dues for the period January, 2015 to March, 2019 and the petitioner-Company was directed to pay Rs.87,82,710/-, along with fine imposed under Section 35B of CPC, vide order dated 20.06.2019. As per learned counsel for the petitioner, against the abovementioned order, the petitioner preferred an appeal under Section 7-I of the Act, before the 'Employees' Provident Fund Appellate Tribunal, Chandigarh', hereinafter being referred to as 'Tribunal' only, claiming *inter alia* that the inspection of record was illegal and no opportunity of cross-examination was afforded to the petitioner.

7. It has also been contended by learned counsel for the petitioner that along with aforementioned appeal, an application under Section 7-O read with Rule 7(2) of the 'Employees Provident Fund Appellate Tribunal (Procedure) Rules', was filed for waiver of pre-deposit of 75% of the amount ordered to be deposit. With regard to above, it has been contended



by learned counsel for the petitioner that on 22.08.2019, the learned Tribunal issued a direction to 'Regional Provident Fund Organization' not to take any coercive measures till the disposal of appeal and the petitioner was directed to deposit 50% of the assessed amount. As per learned counsel for the petitioner, in part compliance of abovementioned order, dated 22.08.2019, the petitioner sought permission to deposit 25% of the assessed amount, which was refused by the 'Regional Provident Fund Organization', and therefore, the learned Tribunal directed that Rs.22,00,000/- be deposited in the form of demand draft and balance 25% by 14.10.2019.

8. It has further been contended by learned counsel for the petitioner that on 14.10.2019, the abovementioned stay order was extended by the learned Tribunal and thereafter, on 03.12.2019, when the petitioner requested the learned Tribunal to allow the petitioner to make the payment of balance amount in ten equal monthly installments, the learned Tribunal was pleased to direct that the requisite amount be deposited in four equal monthly installments. It has been claimed by the learned counsel for the petitioner that the abovementioned direction of learned Tribunal was complied with and thus, the direction issued by the learned Tribunal, vide order dated 22.08.2019 duly stands complied with.

9. It has further been contended by learned counsel for the petitioner that the abovementioned appeal is yet to be decided and the stay order passed by the learned Tribunal is still operative, but the respondent No.3 in violation of abovementioned direction sought for the sanction, for



the prosecution of the petitioner to file complaint for an offence under Section 14 of the Act. According to learned counsel for the petitioner, the respondent No.3, while acting in mala fide manner, filed a complaint on the basis of sanction accorded to him, by the competent authority. With regard to above, it has further been contended by learned counsel for the petitioner that the abovementioned complaints have been filed with mala fide intentions, and that the same are not maintainable in view of the fact that the competent authority had already passed the stay order with regard to recovery of due amount, by virtue of order dated 22.08.2019. As per learned counsel for the petitioner, the Court of learned Judicial Magistrate Derabassi has taken cognizance on the abovementioned complaint and that summoning order has been passed. In this regard, it has been contended by learned counsel for the petitioner that the impugned summoning order passed by the learned trial Court is nothing, but an abuse of process of law, and therefore, deserves to be quashed.

10. Another limb of the arguments of the learned counsel for the petitioner has been that the offence under Section 14 of the Act is committed only when there is some amount due towards the employer. According to learned counsel for the petitioner, since in the present case the recovery of due amount had been stayed by the learned Tribunal, it could not have been presumed that anything was due towards the petitioner, and therefore, any complaint under Section 14 of the Act was not maintainable. As per learned



counsel for the petitioner, in view of above the complaints in question deserve to be quashed.

11. The abovementioned arguments have been controverted by learned counsel for the respondents. It has been contended by learned counsel for the respondents that there is not denial of the factual matrix of the case, as contained in the petition, i.e. the fact, that the stay order had been passed by the learned Tribunal. However, it has been contended by learned counsel for the respondents that in the present case, the most crucial aspect to be noted is that the facts contained in the petition itself show that on the day, when the petitioner approached the learned Tribunal, the learned Tribunal while observing that a default was committed by the petitioner in depositing the amount pertaining to the 'Employees Provident Fund Scheme, 1952', 'Employees' Deposit Linked Insurance Scheme, 1976' and 'Employees Pension Scheme, 1995', directed the petitioner to deposit 50% of the due amount, which came out to be Rs.43,91,355/-. According to learned counsel for the respondents, from the abovementioned contents of the petition itself, it stands established the on the day when the appeal was filed by the petitioner, a sum of Rs.87,82,710/- was due towards the petitioner for deposit before the 'Employees Provident Fund Organization'.

12. While referring to the abovementioned contents of the petition, the learned counsel for the respondents has contended that the moment any amount is found due towards the 'Employees Provident Fund Organization', the offence under Section-14 of the Act is made out, and that in the instant



case, irrespective of the fact that there is stay with regard to recovery of remaining 50% of the due amount, the offence under Section-14 of the Act is made out because at least 50% can be presumed to be due and the default for the same is attributable to the petitioner.

13. In addition to above, it has also been contended by learned counsel for the respondents that otherwise also, the stay order passed by the learned Tribunal, whereby it has been ordered that no coercive measures be taken against the petitioner till the disposal of the appeal, is with regard to recovery process of the due amount and not with regard to default, amounting to commission of offence under Section-14 of the Act, which had already taken place.

14. While defending the impugned order, it has been contended by learned counsel for the respondents that once a particular amount was due towards the petitioner and he defaulted in payment of the same within the fixed timeframe, the offence stood committed and therefore, a right observation has been drawn by the learned trial Court, while taking cognizance on the complaint of respondent No.3 and issuing summons for the petitioner.

15. The record has been perused carefully.

16. In the present case, at the very outset it is relevant to mention here that the sole plank of the petitioner, while challenging the impugned order, is that the learned Tribunal on 22.08.2019, while dealing with an



appeal against the recovery order passed by the respondent No.2, had been pleased to pass the following order:-

“Office report seen.

The present appeal has been filed under Section 7-l of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (in short the Act against the order dated 20.06.2019 passed by the respondent under Section 7-A of the Act, whereby an amount of Rs.87,82,710/- has been levied as EPF dues.

The validity of the order has been assailed on several legal and factual grounds which require thorough consideration as well as perusal of the record.

The main contention of the appellant-counsel is that the assessment is made by the Assistant Provident Fund Commissioner against the period alleged in the notice and without giving proper opportunity to the appellant. It is further argued that appellant-establishment is under financial constraint as such, is unable to deposit the assessment amount. Learned counsel forcefully argued that beneficiaries had not been identified by the assessing authority and impugned order is passed without proper application of mind and against the evidence on record.

Heard the learned counsel of the appellant regarding waiver of the assessed amount under Section 7(0) of the EPF Act. I am of the opinion, the appellant is directed to deposit 50% of assessed amount with the respondent-authority within one month of this order. In the meantime, respondent is directed not to take any coercive step till the disposal of the appeal/application. Let notice be issued to the respondent for his appearance as well as for filing objection to the main appeal as well as to the



application under Section 7(0) on 14.10.2019. Appeal be accordingly registered.”

17. On the strength of abovementioned order, it has been contended by learned counsel for the petitioner that once the order dated 22.08.2019 was passed by the learned Tribunal, a presumption arose that nothing towards the petitioner was due and therefore, during the operation of abovementioned order, the respondent No.3 is debarred from filing any complaint for the same violation in the Court of learned Judicial Magistrate.

18. The interpretation of learned counsel for the respondents qua abovementioned fact is otherwise. As per learned counsel for the respondents, the order dated 22.08.2019 itself shows that on the day when the petitioner approached the learned Tribunal, same amount towards ‘Employees Provident Fund Organization’ was due and thus, a default was committed by the petitioner for which he is liable to be prosecuted.

19. With regard to abovementioned rival contentions of learned counsel for both the parties, it is relevant to mention here that in the present case, there are certain facts, which are not in dispute. Those facts are:-

- i. that the petitioner is a private limited company;
- ii. that the respondent No.3 is an Inspector appointed under Section 13 of the Act;
- iii. that the provisions of the abovementioned Act and the Schemes framed thereunder, are applicable to the petitioner and its employees;



- iv. that as per ‘Employees Provident Fund Scheme, 1952’, ‘Employees’ Deposit Linked Insurance Scheme, 1976’ and ‘Employees Pension Scheme, 1995’, the petitioner was required to deposit the provident fund contribution for the period January, 2015 to March, 2019;
- v. that against the demand received by the authorities of ‘Employees Provident Fund Organization’, an appeal was preferred by the petitioner before the learned Tribunal;
- vi. that the learned Tribunal, in the abovementioned appeal, passed an order and issued direction to the respondents not to take any coercive steps till the disposal of the appeal/application; and
- vii. that the abovementioned appeal is still pending and thus, the abovementioned stay order is operative.

20. In the light of abovementioned admitted facts, now it has to be determined as to whether the respondent No.3 had got authority to file a complaint against the petitioner for default in payment of contribution towards ‘Employees Provident Fund Organization’ or not. With regard to above, it is relevant to note here that once it is an admitted fact that the petitioner had committed a default in deposit of contribution towards the Schemes framed under the Act, the offence under Section-14 of the Act stood committed. Section 14 of the Act provides as under:-

“Penalties.—(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act [, the Scheme [, the [Pension] Scheme or the Insurance Scheme]] or of enabling any other person to avoid such payment, knowingly makes or



causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to [one year, or with fine of five thousand rupees, or with both.]

[(1A) An employer who contravenes, or makes default in complying with, the provisions of section 6 or clause (a) of sub-section (3) of section 17 in so far as it relates to the payment of inspection charges, or paragraph 38 of the Scheme in so far as it relates to the payment of administrative charges, shall be punishable with imprisonment for a term which may extend to [three years] but—

(a) which shall not be less than [one year and a fine of ten thousand rupees] in case of default in payment of the employees' contribution which has been deducted by the employer from the employees' wages;

[(b) which shall not be less than six months and a fine of five thousand rupees, in any other case;]

* * * * *

Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term.]

[(1B) An employer who contravenes, or makes default in complying with, the provisions of section 6C, or clause (a) of sub-section (3A) of section 17 in so far as it relates to the payment of inspection charges, shall be punishable with imprisonment for a term which may extend to [one year] but which shall not be less than [six months] and shall also be liable to fine which may extend to [five thousand rupees]:



Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term.

(2) [Subject to the provisions of this Act, the Scheme][, the [Pension Scheme or the Insurance Scheme] may provide that any person who contravenes, or makes default in complying with, any of the provisions thereof shall be punishable with imprisonment for a term which may extend [one year, or with fine which may extend to four thousand rupees, or with both].

[(2A) Whoever contravenes or makes default in complying with any provision of this Act or of any condition subject to which exemption was granted under section 17 shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment which may extend to [six months, but which shall not be less than one month, and shall also be liable to fine which may extend to five thousand rupees.]”

21. Once the abovementioned default was committed by the petitioner, there were two course available to the respondents, firstly to start process for the recovery of due amount and for that purpose, even coercive steps could have been taken and secondly, to file a complaint in the Court of learned Judicial Magistrate, as the abovementioned default comes within the definition of ‘offence under Section 14 of the Act’.

22. It shall not be out of place to mention here that both the abovementioned remedies could have been initiated by the respondents simultaneously, and therefore, if the stay order with regard to 50% of the due amount was passed by the learned Tribunal, the abovementioned stay order



could have been operative with regard to civil remedy only, i.e. with regard to recovery proceedings. In fact the moment a default with regard to deposit of due amount was committed by the petitioner, the offence under Section 14 of the Act stood committed, and therefore, simply because recovery of 50% of the due amount was stayed, it does not mean that there was a bar for the respondent No.3 to seek sanction for prosecuting the petitioner for the commission of offence under Section 14 of the Act or to file a complaint for the offence under Section-14 of the Act.

23. It is also relevant to mention here that in the present case, the cognizance has been taken by the competent authority and if any amount is due towards the petitioner, the same has to be proved before the learned trial Court by taking proper defence at appropriate stage. However, it is hereby held that at this stage, in the given fact situation, this inference cannot be drawn that the continuation of complaint against the petitioner amounts to an abuse of process of law.

24. It shall not be out of place to mention here that in repeated judicial pronouncements, this law has been propounded by the Hon'ble Supreme Court of India that while exercising its extraordinary jurisdiction, vested by virtue of Section 482 CrPC for quashing of FIR/complaint, the Court should adopt a very conscious approach. The Hon'ble Supreme Court of India in the case of 'Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others' 2021 SCC OnlineSC 315, has prescribed those guidelines that:



- “a) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the ‘rarest of rare cases (not to be confused with the formation in the context of death penalty).
- b) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- c) Criminal proceedings ought not to be scuttled at the initial stage;
- d) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;
- e) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;
- f) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;
- g) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;
- h) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of ‘R.P. Kapur v. State of Punjab’ and ‘State of Haryana Vs. Ch. Bhajan Lal’, 1991(1) RCR 383, has the jurisdiction to quash the FIR/complaint;

25. If the abovementioned principles of law are applied in the



present case, it transpires that this plea of the petitioner is not sustainable that, merely, because the learned Tribunal has passed the stay order with regard to recovery of 50% of fine, the complaint for the commission of offence, which already stands committed, is not maintainable.

26. Accordingly, finding no force in the plea taken by the petitioner, it is hereby observed that the present petition being devoid of merit deserves dismissal. The same is hereby *dismissed*, accordingly.

27. Pending miscellaneous application(s), if any, stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

30.04.2026
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No