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**(181) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of Decision: 09.03.2026

VINOD PARKASH VERMA

... Petitioner

Versus

GULAB SINGH

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Garvit Mittal, Advocate with
Mr. Aman Nain, Advocate
for the petitioner.

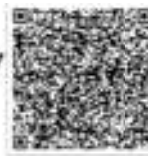
JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 528 of BNSS, 2023 is for quashing of the impugned order dated 17.10.2022 (Annexure P-4) passed by the JMIC, Karnal as well as the order dated 30.01.2025 (Annexure P-6) passed by the Addl. Sessions Judge, Karnal whereby the criminal complaint No.COMI-155-2021 titled as Vinod Parkash Verma Vs. Gulab Singh U/s 166, 167, 463, 464, 465 and 477 IPC (Annexure P-1) filed by the petitioner has been ordered to be dismissed.

2. In this complaint it was alleged by the complainant that he submitted an application to the accused on 07.09.2020, under Section 6(1) of Right to Information Act, 2005 seeking information relating to grants released by Department of Education and SSA Agency, Haryana for Government Model Sanskriti Senior Secondary School, Taraori. Prescribed application fees of Rs.10/- in the form of crossed Indian postal order was

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enclosed with the application. The information was sought regarding suspected large scale misappropriation and embezzlement of grants, which were later proved by the inquiry committee to the tune of Rs. 11,51,406/-. The application was sent by registered post. It was received in the office of the accused on 08.09.2020 at about 2:30 PM, as per record of the school and the post office. The accused being the member of the school, public servant/designated SPIO was required to provide the information within 30 days of the receipt of the application as per Section 7 (1) of RTI Act. However, the accused deliberately, with *mala fide* intention kept the desired information on hold and at the fag end of the stipulated period of 30 days, sent a letter making a false excuse to the effect that the application had been received without RTI fees, that the number of IPO was mentioned but the required amount be deposited either through Indian postal order or bank draft at the earliest. The accused did not deliberately supply the information for fear of exposure regarding the said misappropriation and embezzlement conducted by him by mis-utilizing the government funds/grants in various projects of the school. The accused intentionally removed the IPO from the application. The accused was aware that by mention of the IPO number on the application, it became evident that the prescribed fees had been deposited in the account of government of India and the application cannot be treated to be without fees. The RTI requests without fees are not invalid *per se*. It is mentioned in paragraph no.21 of the guidelines of RTI Act issued by the government that there is no bar on the public authority to supply information

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in response to such applications. It is clear that the fees is not a material factor to turn down the RTI request. Accused being public servant, knowingly disobeyed a direction of the law and intentionally concealed the request which was declined on the false excuse of non payment of fees, so as to cause injury to the complainant. By his withholding the requisite information, accused committed offence punishable under Section 166 IPC. Complainant preferred appeal to the Appellate Authority on 09.10.2020, for taking penal action against accused as per Haryana Civil Services (Government employees Conduct) Rules, 2016. The accused misused his official power, destroyed the valuable public document/Indian postal order worth of rs. 10/-, caused financial loss to the state exchequer with mala fide intention and committed offence punishable under Section 477 IPC. In order to save himself from legal punishment, accused intentionally prepared document no. 3712 dated 05.11.2020 and document no. 3716 dated 12.11.2020. Accused prepared another document bearing letter no. 3777 dated 22.01.2021 addressed to the Block Education Officer, Nilokheri wherein accused claimed that the application was not received by him or by the clerk at the school as per the attendance record that he or the clerk were not present in school at 4:58 PM. As per the school record and statement of the clerk, both were present in school on 08.09.2020. The accused forged departure entry in the attendance register on 08.09.2020. These forged documents were submitted to the Appellate Authority to cause injury to the complainant. The Appellate Authority passed order on 18.11.2020 admitting

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that the application preferred by the complainant was received in office on 20.09.2020 and not on 08.09.2020. 20.09.2020 was Sunday and attendance register shows that nobody was present in school on 20.09.2020 and no question arises of receipt of the application on 20.09.2020. Accused managed to obtain the desired decision on the basis of documents, on 18.11.2020. The issue raised in the appeal were ignored by the appellate authority giving undue benefit to accused. Accused has constantly been in search of excuse to deter the complainant from demanding the said information. Accused also got served legal notice to complainant through counsel, alleging that complainant had defamed the accused by damaging his reputation in the society as well as in the department. Accused threatened the complainant to file defamation suit in Court of law. In the inquiry it was proved that accused had embezzled Rs.11,51,406/- from the construction of three projects out of total 90 projects assigned to him. The complainant prayed for summoning of the accused and to face trial for the commission of offences punishable under Section 166, 167, 463, 464, 465, 477 IPC.

3. Based on the evidence led, the aforementioned complaint came to be dismissed vide judgment dated 17.10.2022 (Annexure P-4) passed by the JMIC, Karnal. The relevant extract of the said judgment is as under:-

“5. At the very outset of the discussion it would be apt to state that Ex.C1 is the application dated 07.09.2020 preferred by the complainant to SPIO-cum-principal (GMS, senior secondary school, Taraori) under the Right to Information Act. Perusal of Ex.C1 reflects that information regarding points No. (I) to (vii) was sought as detailed therein, it also contains the aspect of postal



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order no. 51F 273736 dated 07.09.2020, it contains the aspect of the crossing of the postal order. Ex.C3 is the postal receipt dated 07.09.2020 regarding the application sent by registered post to the SPIO GMSSSS. Ex.C4 is the letter sent by the accused to the complainant, dated 06.10.2020 (memo no. 3689), it mentions that the number of IPO but the original IPO rs. 10/- was not attached, that the required amount be deposited either through Indian postal order or bank draft at the earliest. Mark H are the guidelines on the Right to Information Act, 2005 issued by the Government of India. The relevant guideline no. 21 is reproduced below for facilitative reference:-

“21. If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim to belong to the below poverty line. The application not accompanied by the prescribed fee of rs. 10/- or proof of the applicant’s belonging to below poverty line, as the case may be, shall not be a valid application under the Act. It may be pointed out that there is no bar on the public authority to supply information in response to such applications. However, provisions of Act would not apply to such cases.”

6. The guidelines regarding applications received without fees is reproduced below for facilitative reference:-

“Applications Received Without Fee

2. Soon after receiving the application, the Public information Officer should check whether the applicant has made the payment of application fee or whether the applicant is a person belonging to a Below Poverty Line (BPL) family. If application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as an application under the RTI Act. It may, however, be noted that Public Information Officer should consider such application sympathetically and try to supply information sought by way of such an application.”



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7. Rule No. 15 of Haryana Civil Services (Government Employees Conduct) Rules, 2016 is reproduced below for facilitative reference:-

“15. Every Government employee shall, in performance of his duties in good faith, communicate to a member of public or any organization full and accurate information, which is to be disclosed under the Right to Information Act, 2005 (22 of 2005)”

8. Ex.C5 is the appeal under Section 19(1) of RTI Act, 2005 preferred by the complainant to the first Appellate Authority-cum-District Education Officer, Karnal. Ex.C12 is the order dated 18.11.2020 passed by the District Education Officer, Karnal-cum-First Appellate Authority. The relevant portion of order dated 18.11.2020 is reproduced below, inter alia, for facilitative reference:-

“The personal hearing in the case was held on dated 12.11.2019 and both the appellant and respondent SPIO were heard. The respondent SPIO submitted that the application of the applicant under RTI Act was received on dated 20.09.2020 whereas the applicant stated that he had sent the application by registered post on dated 08.09.2020 and copy was attached by the applicant as Annexure-2. It has also been submitted by the respondent SPIO that the applicant had not sent the fee of RTI and he was intimated vide his office memo no. 3689 dated 06.10.2020 (copy of letter dated 06.10.2020 was attached).

From the perusal of record and after hearing both the parties, it came out that respondent SPIO-cum-Principal-GMSSSS, Taraori, Karnal has failed to respond immediately after receiving the RTI application if the required fee under RTI Act was not with the application. He has himself submitted in his reply that he intimated the application on



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dated 06.10.2020 whereas the RTI application was received by him on dated 20.09.2020 as per his statement.

In view of the above, the appeal is disposed off with a direction to the SPIOs-cum Principal- GMSSSS, Taraori, Karnal to provide required information under the RTI Act to the applican within 7 days of the receipt of the order”

9. From the above said discussion, it emerge that guideline no. 21 on RTI Act, 2005 provides that any application not accompanied by the prescribed fees of rs. 10/- or proof of the applicant belonging to below poverty line shall not be valid application under the Act. Guideline no. 2 regarding applications received without fees provides that soon after receiving application, the public information officer should check whether the applicant has made the payment of application fees or whether the applicant is a person belonging to below poverty line family. The accused has not committed any illegality when he issued the letter/Ex.C4 to the complainant, asking the complainant to deposit the required amount either through the Indian postal order or bank draft, mentioning that the number of IPO had been mentioned but the original IPO of rs. 10/- was not attached with the application. It was held by Hon'ble Supreme Court of India in M/s. Pepsi Food Ltd. & Anr Vs. Special Judicial Magistrate & Ors:-

“Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be



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sufficient for the complainant to succeed in bringing charge home to the accused.”

10. Besides the above said discussion, there is nothing on the judicial file to show that any sanction to prosecute the accused has been granted by the government/competent authority qua the factual matrix in question. Consequently, in light of the above said discussion, this Court finds no ground to summon the accused for having committed any of the offences in question and this complaint is hereby dismissed. File be consigned to the record room as per Hon’ble High Court rules.

4. The petitioner preferred a revision petition which came to be dismissed vide judgment dated 30.01.2025 (Annexure P-6) passed by the Addl. Sessions Judge, Karnal. The relevant extract of the said judgment is as under:-

“8. As such, before issuing the summoning order, the trial Court is required to apply its mind and then on the basis of the preliminary evidence and the documents on the record, it has to form an opinion that a prima facie case is made out in favour of complainant against the accused for which the accused have to be summoned to face the prosecution. It is well settled proposition of law that criminal prosecution is a serious matter. It affects the liberty of a person. No greater damage can be done to the reputation of a person, than the dragging him in a criminal case. Criminal law can not set into motion as a matter of course. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable therein. He has to examine the nature of the complaint and the evidence, both oral and documentary in support thereof, relatable to the relevant provisions of the offences and that would be sufficient for the complaint to succeed in bringing charge



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home to the accused. It is not that the Magistrate is a silent spectator at the time of preliminary evidence, the accused can not be summoned in a routine manner.

9. On going through the material of trial court, there is nothing to suggest that the respondent has committed the offence for which the complainant seeks his prosecution. I have gone through the oral and documentary evidence on the record of the trial Court and there is nothing on the record to prove any of the commission of offences to have been committed on the part of respondent. No essential of any of the offence for which the revisionist is seeking the prosecution of respondent have been proved.

10. I do not find any illegality perversity in the finding of the trial court for which it has dismissed the complaint of the complainant by observing that no sufficient ground is made out to issue the process against the respondent.

11. There is no manner of doubt that very object of conferring of powers under Section 397 of Cr.P.C. is to correct mis-carriage of justice rising from illegality or irregularity of procedure. Jurisdiction of Court under section 397 Cr.P.C. can be exercised so as to examine the correctness, legality or propriety of an order passed by the Area Magistrate or the inferior court, as the case may be. In the instant case, it is a fit case by virtue of which this court has to exercise its powers as the trial court has committed illegality and irregularity by not exercising its jurisdiction rightly at the time of passing the impugned order.

12. No other point was urged or raised before me.

13. As a cumulative effect of my aforesaid discussion, I do not see any illegality, perversity in the impugned order of the trial Court. The order of the trial Court is perfect and valid in the eyes of law. Hence, the present revision being devoid of merits is hereby dismissed. Trial court record be sent back along with the copy of



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the order. Revision file be consigned to the record-room, after due compliance.”

5. The learned counsel for the petitioner contends that the impugned judgments dated 17.10.2022 (Annexure P-4) and 30.01.2025 (Annexure P-6) have been passed without proper appreciation of the facts and law. The need for prosecution sanction is to be considered during the course of the trial and that too where the act is committed in the discharge of purported discharge of official duties. It is a case where there is clear fabrication of incorrect reports i.e. letters dated 05.11.2020 (Annexure P-8) & 22.01.2021 (Annexure P-9). He, therefore prays that the impugned judgments are liable to be set aside.

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

7. A perusal of the material on record would reveal that there is nothing to suggest that the respondent has committed the offences for which the petitioner has sought his prosecution. In fact, the present is a case where prosecution sanction is certainly required as the respondent has acted in discharge of his official duties. In the absence of the order granting sanction, no Court can take cognizance of the offence.

8. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

09.03.2026

JITESH

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