



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

120

CRM-M-61149-2023

Date of Decision: 05.05.2026

DR. AMIT CHAUDHERY**.....PETITIONER****VERSUS****STATE OF HARYANA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE H.S.GREWAL**

Present: Mr. Reshabh Bajaj Advocate for the petitioner.
Ms. Malvika Singh, DAG, Haryana.

H.S. GREWAL, J. (ORAL)

1. This petition has been filed under Section 482 of Cr.P.C for impugning and quashing of FIR No. 140 of 2017 dated 17.03.2017 under Sections 406, 409 and 420 of IPC registered at Police Station Manesar along with final report/charge sheet dated 26.09.2017 presented before the Id. ACJM, Gurugram in case titled as "State Vs Amit etc." in CHI NO. 3702 of 2017 and consequently the order framing charges dated 01.11.2019 passed by the Id. ACJM, Gurugram in case titled as "State Vs. Amit etc." in CHI No. 3702 of 2017 and all other consequential proceedings therefrom.

2. The case of the prosecution is that initially, a complaint was submitted by HC Sanjeev Kumar, wherein it was stated that in FIR No. 08 dated 09.01.2017, registered under Section 427 IPC and Sections 11, 59, and 60 of the Prevention of Cruelty to Animals Act, the challan had already been presented before the learned Court. The said case was registered on the complaint of Saptarshi Roy, Manager, PFA, Sadhrana, according to which 17



camels were recovered from Truck No. HR-74-5049, and accused Mohd. Shakim and Sharim were arrested. Thereafter, both Saptarshi Roy, Manager, PFA, Sadhrana, and accused Sharim moved applications for superdari before the learned Court. The application filed by Saptarshi Roy was allowed, subject to the condition that he would maintain proper care of the animals, including adequate food, shelter, and medical treatment, and would produce the camels before the Court as and when required. It was further undertaken that the camels would not be shifted from the camel shed at Village Sadhrana without prior permission of the Court. In compliance with the Court order dated 07.01.2017, custody of the 17 camels was handed over to Saptarshi Roy, and a receipt to that effect was duly obtained. Subsequently, Sh. Prashant Rana, ACJM, Gurgaon, directed the SHO, Police Station Manesar, to hand over the custody of the camels to Sharim son of Rashid, resident of Baghpat. It was reported that the camels had been sent to Rajasthan with the permission of the District Administration and that it would take approximately 10–15 days to hand over the same to Sharim. This report was submitted before the learned Illaqa Magistrate. Upon receiving the said report, the Court directed the Manager and President of PFA, Sadhrana, along with the SHO concerned, to recover the camels and hand over their custody to Sharim in terms of order dated 06.03.2017. Thereafter, when HC Sanjeev Kumar, along with Sharim, reached the premises, some camels were handed over to Sharim. It was reported that one camel had died on 14.03.2017 and the Court had been informed accordingly. Two camels were stated to be in critical condition and were shown to Sharim, while three camels were reportedly to be brought back



from Rajasthan. However, six camels could not be handed over to the rightful owner.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and has been arrayed as an accused merely on account of his honorary association with the NGO, namely PFA. It is submitted that neither the FIR nor the material collected during investigation attributes any specific role to the petitioner showing that he was personally responsible for the custody, transfer, or non-production of the camels in question.

4. It is further submitted that even the organisation itself, namely PFA, has not been arrayed as an accused, and therefore, fastening criminal liability upon the petitioner individually, in the absence of any specific role, is wholly unjustified. Learned counsel also submits that the ingredients of the offence under Section 409 IPC are not made out on the face of the record as the entrustment was not made to a public servant and the petitioner cannot be prosecuted or held criminally liable for such offence. In support of his submissions, learned counsel has placed reliance upon the judgment of the Hon'ble Supreme Court in *Sadhupati Nageswara Rao vs. State of Andhra Pradesh*, wherein it has been held that to constitute an offence of criminal breach of trust, the prosecution must establish entrustment coupled with dishonest misappropriation or conversion. It is therefore, prayed for setting aside the criminal proceedings against the petitioner as the continuation thereof would amount to abuse of the process of law.



5. Learned State counsel submits that the NGO is also funded through public money and, at this stage, it cannot be presumed that the petitioner was not acting as a public servant. She further submits that the camels had been sent to Rajasthan without obtaining prior permission of the learned Court, in violation of the conditions of superdari.

6. I have heard the submissions made by ld. counsel for the parties and perused the record.

7. The primary argument raised on behalf of the petitioner is that the petitioner has been implicated merely because he was the honorary President of the NGO concerned whereas no specific role has been attributed to him and the ingredients of Section 409 IPC are not attracted.

8. In order to appreciate the above contentions, it is apposite to refer the definition and punishment of criminal breach of trust and related provisions provided under Sections 405, 406 and 409 IPC which read as under:-

405. Criminal breach of trust.- Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or willfully suffers any other person so to do, commits "criminal breach of trust".

406. Punishment for criminal breach of trust.- Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

409. Criminal breach of trust by public servant, or by banker, merchant or agent.- Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be



punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

In order to prove the offence of criminal breach of trust which attracts the provision of [Section 409](#) IPC, the prosecution must prove that one who is, in any manner, entrusted with the property, in this case as a dealer of fair price shop, dishonestly misappropriates the property, commits criminal breach of trust in respect of that property. In other words, in order to sustain conviction under [Section 409](#) IPC, two ingredients are to be proved: namely, i) the accused, a public servant or a banker or agent was entrusted with the property of which he is duty bound to account for; and ii) the accused has committed criminal breach of trust. What amounts to criminal breach of trust is provided under [Section 405](#) IPC. The basic requirement to bring home the accusations under Section 405 are the requirements to prove conjointly i) entrustment and ii) whether the accused was actuated by dishonest intention or not, misappropriated it or converted it to his own use to the detriment of the persons who entrusted it.

9. It is apparent from the record that the camels in question were released pursuant to judicial orders and were required to be maintained and produced in accordance with the conditions imposed by the competent Court. The prosecution case alleges that some of the animals were shifted without obtaining prior permission of the Court, some could not be produced despite directions, and one animal had died. However, this Court is of the considered view that the submissions advanced on behalf of the petitioner cannot be conclusively adjudicated in proceedings under Section 482 Cr.P.C. at this stage, as the matter involves disputed questions of fact requiring proper appreciation of evidence.

10. Furthermore, the defence raised by the petitioner regarding absence of entrustment, lack of personal involvement, and non-applicability of



Section 409 IPC are essentially matters of factual adjudication and legal defence, which can be properly examined only after evidence is led before the learned trial Court. At this stage, this Court cannot enter into a meticulous examination of the evidentiary material to determine the correctness of the rival claims.

11. Moreover, the inherent jurisdiction under Section 482 Cr.P.C. are extraordinary in nature and are to be exercised carefully, and only in exceptional circumstances to prevent abuse of the process of law or to secure the ends of justice. Reference can be made to the judgment of the Hon'ble Supreme Court in the case of **State of Haryana and others versus Bhajan Lal and others, 1992 Supp (1) SCC 335**, wherein it has been clearly held that while exercising jurisdiction under Section 482 Cr.P.C., the High Court should not undertake a detailed appreciation of evidence or adjudicate disputed questions of fact as if conducting a trial.

12. In view of the above, this Court is not inclined to exercise its inherent jurisdiction under Section 482 Cr.P.C. in the present case. Consequently, the present petition is disposed of with liberty to the petitioner to raise all the pleas before the learned trial Court at the appropriate stage, strictly in accordance with law.

05.05.2026

renu

(H.S.GREWAL)
JUDGE

Whether speaking/ reasoned :

Yes/No

Whether Reportable :

Yes/No