
(2015) 02 P&H CK 0126

In the Punjab And Haryana At Chandigarh

Case No : CRM Nos. M-35733 of 2007 and M-32454 of 2008 (O and M)

Charan Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 10-02-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173, 482
Penal Code, 1860 (IPC) — Section 120-B, 409, 420, 467, 468

Citation : (2015) 02 P&H CK 0126

Hon'ble Judges : Kuldip Singh, J.

Bench : Single Bench

Advocate : J.S. Gill, for the Appellant

Final Decision : Partly Allowed

Judgement

Kuldip Singh, J.—By this judgment, I shall dispose of CRM-M No. 35733 of 2007 and CRM-M No. 32454 of 2008 pertaining to the same controversy.

2. CRM-M No. 35733 of 2007 titled as Charan Singh and others v. State of Punjab and others has been filed under Section 482 Cr.P.C. for issuing appropriate directions for handing over the investigation of FIR No. 40 dated 13.4.2007 registered under Sections 420, 467, 468, 471, 409, 120-B IPC at Police Station Machhiwara, District Ludhiana to CBI claiming that since the investigation in the FIR being carried out by the committee consisting of 3 IPS officers who had unearthed the scam worth Rs. 8 crore in Cooperative Society has been withdrawn and the same has been handed over to PPS officer, namely, Kanwarjit Singh Sandhu, SSP Vigilance Bureau, Ludhiana due to the political interference of sitting SGPC President Shri Avtar Singh Makkar who is relative of main accused Secretary-cum-Cahiser.

3. Learned counsel for the petitioners has informed that out of the four petitioners, Charan Singh petitioner No. 1 and Mohinder Singh petitioner No. 3 have died. However, the petition survives qua the remaining petitioners.

4. CRM-M No. 32454 of 2008 has been filed by Surjit Singh for quashing inquiry report (Annexure P2) submitted by respondent No. 4 i.e. Senior Superintendent of Police, Vigilance Bureau, Ludhiana in FIR No. 40 dated 13.4.2007 registered under Sections 420, 467, 468, 471, 409, 120-B IPC at Police Station Machhiwara, District Ludhiana, which is without jurisdiction and contrary to the facts and principles of natural justice and for directing respondent No. 1 i.e. the State of Punjab to hand over the investigation of the case to some independent agency such as CBI or back to Special Investigation Team already constituted in the above mentioned FIR consisting of 3 IPS officers. Further prayer has been made for issuing appropriate directions to respondent No. 2, namely, Director General of Police to send the forged signatures of the petitioner on the Cash Book and day book entries of Machhiwara Cooperative Agriculture Service Society Limited to respondent No. 6 (Director CFSL Punjab, Sector 9, Chandigarh) for comparison with standard signature of the petitioner to extract the truth as the entries had been done in case of forged receipts dated 14.3.2006, 29.3.2006 and 30.3.2006 on which respondent No. 6 has already submitted the report on the direction of Sub Divisional Judicial Magistrate, Samrala.

5. Facts of the case are extracted from CRM-M No. 35733 of 2007. It is stated by the petitioner that they are elected members of the Machhiwara Cooperative Agricultural Service Society Limited, Machhiwara, District Ludhiana (for short, "Machhiwara CASS). The Society covers 11 villages falling in district Ludhiana. There are total 9 elected members of the Committee including the President. All the petitioners are also members of the said Society. A big fraud running into Rs. 8 crores of public money was being played upon the Society by Rajinder Singh, Secretary-cum-Cashier of the Society (now respondent No. 3) in collusion with 5 elected members of the Society, 2 ex-Branch Managers of Ludhiana Central Cooperative Bank Limited, Branch Machhiwara and one Audit Inspector Nachhattar Singh. Petitioners made representation to the Assistant Registrar Cooperative Society regarding the fraud. After going through the report, the Assistant Registrar Cooperative Society constituted a Committee consisting of 5 Inspectors who verified the antecedents of the members of the Society. It transpired that number of bogus members were enrolled and amount worth crores of rupees was got sanctioned in the name of the said members which was pocketed by said Rajinder Singh in collusion with 8 members. The then Assistant Registrar thereafter made a detailed complaint to Senior Superintendent of Police, Khanna for registration of FIR against said 8 persons on the basis of the report submitted by Committee of 5 Inspectors. After receiving the complaint, SSP Khanna Mr. Farooqi marked the inquiry to DSP Samrala Mr. Mukhwinder Singh Bhullar. The said DSP within a period of 3-4 days without going into the depth of the controversy and without examining the record submitted the report exonerating the accused and putting the entire blame upon Rajinder Singh, Secretary-cum-Cashier and one Surjit Singh, Salesman (Khad). The said DSP was already awaiting the transfer. The enquiry of said DSP was based upon the Audit report which was already set aside by the Assistant Registrar as well as the

Administrator of the Society.

6. In the meanwhile, one of the members of the Society, namely, Chaman Lal of Machhiwara has made a complaint to S.C. ST. Cell with regard to the fraud and on the said complaint inquiry was marked to A.D.G.P Internal Vigilance Cell, Punjab, Chandigarh.

7. Thereafter, SSP Khanna Mr. Gautam Cheema had taken over the charge. He took into consideration of the said report of DSP Samrala as well as report submitted by DSP internal vigilance Cell Chandigarh. He rejected the report of the DSP, Samrala and agreed with the report of DSP Internal Vigilance Cell Chandigarh.

8. Certain representations were also made to the I.G. Zonal Jalandhar Range Mr. Sanjeev Kalra, IPS who marked the same to D.I.G. Ludhiana Range Mr. Ishwar Singh, IPS. DIG constituted a Committee of 3 IPS officers consisting of Sh. Gautam Cheema, IPS, SSP Khanna Dr. Sukhchain Singh Gill IPS, S.P City Ludhiana and Sh. Babu Lal Meena IPS S.P City-I, Ludhiana. The Committee summoned the record and found that the fraud has been played with the public money. Till April 2007, fraud worth Rs. 7-7.50 crores was unearthed. The members of the said Committee were working day and night.

9. In April 2007, political interference started. Accused Rajinder Singh, who is close relative of SGPC President Avtar Singh Makkar, met the Chief Minister in Sangat Darshan and got the inquiry marked to Crime Branch. The accused succeeded in getting the inquiry marked to SSP Vigilance Bureau Mr. Kanwarjit Sandhi, PPS. Shifting of inquiry to a single PPS officer from 3 IPS officers is a matter of concern and to help the accused. It was further alleged that Rajinder Singh, Secretary-cum-Cashier was having only 16 acres of joint land when he joined the Society but now he is the joint owner of more than 80 acres of land. He also owns petrol pump at Machhiwara, possess one commission agent shop at Grain Market and another one in the vegetable market. It is stated that accused have misappropriated the amount and public money worth Rs. 7.50 crores.

10. Respondent Nos. 1 and 2 in the reply have not disputed the factual position. It is stated that SSP Vigilance Bureau, Ludhiana Range vide letter dated 2.8.2007 addressed to SSP Khanna has intimated that inquiry has been completed and sent to high officers as per the orders of the Chief Minister. Constitution of SIT consisting of 3 IPS officers and the transfer of the inquiry to SSP Vigilance Bureau was admitted.

11. The State also placed on file the inquiry report submitted by DSP Samrala dated 24.3.2007 (Annexure R2/T), inquiry report submitted by DSP IVC Punjab dated 21.3.2007 (Annexure R3/T) and inquiry report by Superintendent of Police Vigilance Bureau Ludhiana dated 26.6.2007 (Annexure R4/T).

12. I have heard learned counsel for the petitioners, learned State counsel and learned counsel for respondent No. 3.

13. The perusal of file shows that in this case allegations are very serious. The allegations are that bogus members of Machhiwara CASS were enrolled and public money worth little less than Rs. 8 crores has been embezzled by some persons. This Court is not concerned about the merits of the matter. However, the embezzlement of public money is a matter of serious concern. The facts narrated above clearly show that one or the other inquiry was being conducted. DIG Ludhiana Range constituted a team of 3 IPS officers who conducted the inquiry and parallel inquiry was got marked from the Chief Minister in Sangat Darshan. Probably, at that time, the pendency of the inquiry before 3 IPS officers might not have been brought to the notice of the authorities. The fact remains that since 2007, the matter is being delayed for one or the other reason and the fruits of embezzled money are being enjoyed by the accused.

14. Therefore, to set at rest the controversy and to ensure that a fair and proper inquiry is conducted into the scam, a direction is issued to Director General of Police, Punjab to entrust the investigation of this case to a competent IPS officer having impeccable integrity and he be directed to investigate the case in FIR No. 40 dated 13.4.2007 registered under Sections 420, 467, 468, 471, 409, 120-B IPC at Police Station Machhiwara, District Ludhiana and present the final report to the Illaqa Magistrate. The IPS officer to investigate the case shall be nominated within a period of one month from the date of receipt of a copy of this order. The officer shall be entitled to take assistance of any subordinate/s of his choice. After the receipt of the orders of DGP, the said IPS officer shall conclude the investigation preferably within three months. It is further directed that the officer so nominated along with his team shall continue with the investigation till the presentation of final report under Section 173 Cr.P.C. to the Court, even if he or any of the member of his team is transferred on any ground. The officer will take independent view of the matter without being influenced by previous inquiries/ investigations.

15. Consequently, both the petitions bearing CRM-M No. 35733 of 2007 and CRM-M No. 32454 of 2008 are allowed to the above noted extent.