
(1991) 07 P&H CK 0048

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 12920-M (O&M) and 12921 of 1990

Krishan Lal Bhatia, Block Development & Panchayat Officer

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 18-07-1991

Acts Referred:

Citation : (1991) 3 RCR(Criminal) 601

Hon'ble Judges : J.B.Garg, J

Advocate : R.S. Thiara, C.L. Sharma, J.S. Wasu, Advocates for appearing Parties

Judgement

J.B. Garg, J.

1. Krishan Lal Bhatia, Block Development and Panchayat Officer, posted at Ropar, in the year 1982, has moved the present petition under Section 482 of the Code of Criminal Procedure and challenged his prosecution arising out of fir No., 140 dated 2481984 under section 5(2) of the Prevention of Corruption Act, and section 161 of the Indian Penal Code.

2. Briefly, the facts as alleged in the present petition are that in the

year 1982 petitioner was posted as Block Development and Panchayat Officer in District Ropar. There was a scheme of the State Government to help the members of the Scheduled Castes and a loan of Rs. 5,000/ each was to be disbursed to 16 residents of village Daburji. It was to be repaid in twenty equal instalments. The allegations against this public servant were that prior to the disbursement of the loans he received a sum of Rs. 500/ from each at the time of making the applications and a further sum of Rs. 200/ each at the time of disbursement of the loan. It has been alleged that earlier there was a sanction to prosecute him on 17111986 but after further investigation it was withdrawn by the Secretary, Department of Rural Development and Panchayats, Punjab Government (Annexure P5) on 9111987, because neither the recommendations of the loan were made by the petitioner nor he was the sanctioning authority.

3. The learned counsel for the petitioner has referred to a communication (Annexure P2) wherein the State of Punjab asked the Superintendent of Police, Ropar, not to act upon the earlier sanction dated 17111986. This was further affirmed vide letter dated 1061987 (Annexure P3). Ultimately, there was another communication dated 29111988 (Annexure P5) whereby the Punjab Government asked the Senior Superintendent of Police, Ropar, that the reports received from the Deputy Commissioner and the Senior Superintendent of Police, were found contradictory and that the complainants had informed the Deputy Commissioner, Ropar that the loanees had not paid any illegal gratification to the Block Development and Panchayat Officer i.e. the petitioner.

4. The learned counsel for the petitioner has argued that the alleged loans or their payments was a matter between the Deputy Commissioner and the members of the Scheduled Castes and the then Sarpanch of the village was a kind of person who introduced the applicants to the sanctioning authority and the executive authority of the State level which itself went into the matter in detail, was of the view that no payment of any kind, much less any illegal gratification, was paid or remitted to the present petitioner and it was in these circumstances that the sanction for prosecution of this public servant was withdrawn obviously prior to the presentation of the challan. The learned counsel for the petitioner has referred to *Parmanand bass v. State of Andhra Pradesh*, 1978 SCC (Cri) 482 where the accused was a clerk in Hyderabad Municipal Corporation and his plea was that the grant of sanction by the Special Officer was not a bona fide one and was on account of an ulterior motive. A perusal of this case of Andhra Pradesh goes to show that there was no legal bar to the sanctioning authority revising its own opinion. It shall not be fair visavis the petitioner to ignore a well reasoned order of the State Government dated 19111988 withdrawing the sanction to prosecute Krishan Lal Bhatia, the then Block Development and Panchayat Officer. Another authority referred to is *Superintendent and Ramembrancer of Legal Affairs v. Mohan Singh and others*. AIR 1975 SC 1002, where also the criminal proceedings which continued dragging for 7 or 8 years were quashed. Though the petition has been opposed yet any authority to the contrary has not been referred to here. The conclusion is that the petition succeeds and the proceedings in question are quashed qua the petitioner.