(1996) 03 P&H CK 0048

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No''s. 4987-M and 4990-M of 1995

Mohan Lal Darshan Kumar and Others — APPELLANT

Vs

S.P. Bookal, ITO and Another — RESPONDENT

Date of Decision : 14-03-1996

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Income Tax Act, 1961 — Section 245C, 245H, 276C
Penal Code, 1860 (IPC) — Section 193, 34, 467, 471

Citation : (1996) 220 ITR 593

Hon'ble Judges : V.S. Aggarwal, J

Bench : Single Bench

Advocate : Satish Jain, for the Appellant; R.P. Sawhney and Sanjay Goyal, for the Respondent

Judgement

V.S. Aggarwal, J.—The petitioner, Mohan Lal Darshan Kumar, is a partnership concern engaged in the lousiness of sale and purchase of foodgrains, oil seeds and wine, etc. Petitioners Nos. 2 to 5 are its partners. On November 28, 1981, the Income Tax Officer, Yamuna Nagar, filed a complaint against the petitioners in the Court of the Chief Judicial Magistrate, Jagadhari, alleging commission u/s 276C(1) of the Income Tax Act, 1961, and u/s 193/467/471/34 of the Indian Penal Code, 1860, in respect of the assessment year 1981-82. It was alleged that some entries relating to the debit and credit balance had not been disclosed in the regular account books. On February 9, 1983, petitioner No. 1 moved an application u/s 245C of the Income Tax Act before the Income Tax Settlement Commission, New Delhi, for settlement of its liabilities and all related matters for the assessment years 1980-81, 1981-82 and 1982-83. It included a prayer u/s 245H of the Income Tax Act for grant of immunity from prosecution under the Act or the Indian Penal Code. On consideration of the facts, the Settlement Commission on July 6, 1985, passed an order allowing the application. When the same was allowed, an application was preferred to the Chief Judicial Magistrate, Ambala, that settlement has been allowed to be proceeded with by the

Settlement Commission and other Income Tax authorities have ceased to have any jurisdiction. They prayed to be discharged. The application was dismissed. By virtue of the present petition, the petitioners seek quashing of the complaint and the subsequent proceeding on the ground that findings have been arrived at by the Settlement Commission. Therefore, the continuance of the trial would be an abuse of the process of the court. The petition is being opposed.

2. On the same facts, Criminal Misc. No. 4990-M of 1995 has also been filed which requires hardly any repetition,

3. Arguments had been addressed but learned counsel for the petitioners referred to the decision of a single Bench of this court between the parties in Criminal Misc. No. 5008-M of 1994 Mohan Lal Darshan Kumar Vs. S.P. Bookal, Income Tax Officer and Another, rendered on November 24, 1994. On identical facts, the proceedings as such were quashed. There is no ground to take a different view. Accordingly, the petitions are accepted. The criminal complaint and the subsequent proceedings pending in the Court of the Chief Judicial Magistrate, Ambala, are quashed.