

2023:PHHC:063425

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-22112-2023 (O&M)
Date of Decision:-03.05.2023

Manoranjan Sharma and another

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gaurav Mohunta, Advocate with
Mr. Nishant Arora, Advocates, for the petitioners.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioners seek quashing of FIR No. 164, dated 06.03.2023, Police Station City Narnaul, District Mahendergarh, under Section 409 IPC (Sections 420, 467, 468, 471, 120-B IPC and Sections 13(1)(c), 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 added later on).
2. The gist of the FIR is that petitioner No.1, who was Secretary of Red Cross, Narnaul was instrumental in getting an order in favour of his own daughter pertaining to supply of sanitary napkins and various irregularities were found in the manner in which this contract was awarded. The relevant extract from the FIR with respect to the allegations levelled against the petitioners is reproduced herein under:

“A copy of the inspection report is attached for perusal. The findings of the said investigation report and related as per the records, the following irregularities/ facts are mentioned in the

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alleged scam. The number of napkins was not given in the quotation related to purchase of napkins worth Rs.28,33,600/-. There should have been Bio-degradable Certificate of the firm which is not on file. The copy of the work order on the basis of which the napkins were made available is also not available on file. Due to non-availability of PAN card, a debit note was prepared after the cheque was returned, but the approval for making the debit note was not taken from the Deputy Commissioner and President. The napkins supplied by the firm were not entered in the stock register. It was mandatory for the firm taking the tender of such a huge amount to have a PAN card. The documents of the firm should have been properly scrutinized before awarding the tender and no such condition was imposed even before inviting quotations. The approval to purchase sanitary napkins has been given by the Deputy Commissioner and President but the approval of advance amount of Rs.17 lakhs for the purchase of napkins was not taken from the Deputy Commissioner and President. There is no GST and PAN / TAN on the bill either. What has been mentioned about the firm, has been informed by the firm through e-mail that the firm has been closed due to lack of work in Covid. Presently there is no firm. Which is also accepted by the firm. There is no document available on file regarding the firm nor is there any registration of the firm. Even PAN, TAN are not there. Presently there is no firm at the concerned address. So, whether the firm was there or not, it cannot be said clearly.”

3. Learned counsel for the petitioners while assailing the FIR has broadly raised the following submissions:

- (i) that there is delay in lodging the FIR inasmuch as while the tender for purchase of sanitary napkins had been floated in June 2019 and the same were supplied by November 2019, the instant FIR came to be lodged belatedly i.e. in the year 2023;

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- (ii) that there is no such allegation that the articles in question were not delivered;
- (iii) that it is not alleged that the articles in question were not of the approved quality;
- (iv) that as a matter of fact, delivery of the said articles in various colleges has also been confirmed;
- (v) that the investigating agency for reasons best known to it, is not taking any action against the other three members of the Committee which had been constituted for the purpose of approval of the tenders;
- (vi) that the petitioner has been falsely implicated on account of his enmity with complainant-Sham Sunder who is the present Secretary, District Red Cross Committee, Narnaul, and who had been instrumental in getting the brother of petitioner No.1 demoted, though the said demotion was later on set aside;
- (vii) that the entire procedure was duly approved by the Deputy Commissioner.

4. This Court has considered the aforesaid submissions.

5. A perusal of the FIR clearly show that very specific, unambiguous and crisp allegations have been levelled to the effect that petitioner No.1, who was Secretary of Red Cross, Narnaul was instrumental in getting an order in favour of his own daughter pertaining to supply of sanitary napkins and that various irregularities were found in the manner in which this contract was awarded. Though, the learned counsel for the petitioners submits that the articles in question were duly delivered, but as per the report of the S.D.M., no such delivery was not recorded in the Stock Register maintained in the

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office of Red Cross. Though, it is also contended that upon inquiries from the colleges, they had admitted having received the articles but it is also stated that no such record was available with the said colleges. As far as the quality of the articles supplied is concerned, the petitioners, mainly banks upon the approval accorded by the Deputy Commissioner to the effect that the articles were bio-degradable whereas the requirement was a certification to this effect which was absolutely missing in the present case. The fact that there is omission of various other pre-requisites in the shape of providing all TAN, PAN number etc. and it is a case where even advance payment of Rs.17 lakhs was made, though stated to be made on the basis of permission of “single signature” approval goes to show that department concerned was too keen to award contract and make payments. It remains to be seen as to whether such like “single signature” approval is accorded in all such cases. Though, the learned counsel submits that quotations had been invited but as per report of SDM, no such quotations were found. This Court further finds that there are lot of cuttings in the bills (Annexure P-5) which again casts a suspicion on the conduct of all those concerned. Though, the learned counsel for the petitioners has submitted that the investigating agency is not proceeding against the other members of the committee but the case is still at its nascent stage of investigation and investigating agency shall do the needful as may be warranted on the basis of evidence found against any other person. Having regard to the totality of the facts and circumstances of the case, this Court finds that there are several irregularities committed in the process of awarding an order to a firm owned by daughter of petitioner No.1 which apparently has been done so as to extend an undue favour to petitioner No.2 daughter of petitioner No.1, who was the Secretary, Red Cross,

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Narnaul. The facts stated in FIR do *prima-facie* disclose commission of offences. The facts in any case do not warrant invoking of powers under Section 482 Cr.P.C. for quashing of the FIR at this initial stage.

6. The petition is sans any merit and is hereby dismissed.

03.05.2023 (GURVINDER SINGH GILL)
mohan JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No