Gagandeep Singh and Another vs. State of H.P. and Another,

Applicability of CRPC to GST

Date of Order: June 23, 2025
Case Law No: GIB-HPHC-2025-14
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CASE DESCRIPTION / SUMMARY

Facts of the Case

The complainant department filed Complaint No. GST/01/2018 before the learned Additional Chief Judicial Magistrate, Kasauli, alleging commission of offences under Section 69 read with Section 132 of the HPGST/CGST Act, 2017 and Section 20 of the IGST Act, 2017 against the petitioners, who were partners of M/s G.M. Powertech.

It was alleged that the firm had availed fraudulent input tax credit (ITC) during the financial years 2017–18 and 2018–19 by declaring inward supplies from fictitious and non-existent firms based in Delhi and Uttar Pradesh. The GST portal verification revealed that goods were purportedly transported in fake or non-existent vehicles, including two-wheelers and cars incapable of carrying heavy consignments. Investigation showed that suppliers mentioned in invoices did not exist at the given addresses. Fraudulent ITC amounting to substantial sums was alleged.

The learned Trial Court, upon finding sufficient material, summoned the accused and fixed the matter for recording pre-charge evidence.

Aggrieved, the petitioners approached the High Court seeking quashing of the complaint and subsequent proceedings. They contended that the GST Acts were silent regarding investigation and filing of complaint, that departmental officers exercised unbridled powers, that Sections 69 and 132 were arbitrary and violative of Article 21 of the Constitution, and that the trial court erred in proceeding as a warrant case and ordering pre-charge evidence.

The principal questions before the High Court were:

1. Whether the provisions of the Code of Criminal Procedure apply to investigation and trial under the GST Acts.
2. Whether the complaint and proceedings were liable to be quashed under Section 482 Cr.P.C.

3. Whether the trial court erred in treating the matter as a warrant case and directing pre-charge evidence.

Court Observations and Decision

The High Court examined the law relating to quashing of criminal proceedings and reiterated the principles governing exercise of inherent powers under Section 482 Cr.P.C., as laid down by the Supreme Court. It observed that quashing is permissible only in limited circumstances such as absence of prima facie offence, legal bar to proceedings, or manifest abuse of process.

On applicability of Cr.P.C., the Court relied on the Supreme Court's decision in *Radhika Agarwal v. Union of India*, holding that by virtue of Sections 4(2) and 5 Cr.P.C., the provisions of the Code apply to offences under special statutes unless expressly excluded. It further noted that GST Acts are not a complete code in respect of search, seizure, arrest and procedure, and therefore Cr.P.C. provisions apply in the absence of any contrary provision.

The Court rejected the contention that the Act was silent regarding investigation and filing of complaint. It held that Cr.P.C. governs such procedure unless excluded.

Regarding the trial as a warrant case, the Court observed that Section 132 provides punishment up to five years' imprisonment. Since a warrant case under Section 2(x) Cr.P.C. includes offences punishable with imprisonment exceeding two years, the trial court was correct in proceeding as a warrant case. Under Section 244 Cr.P.C., in cases instituted otherwise than on a police report, the Magistrate is required to record prosecution evidence after appearance of the accused. Therefore, ordering pre-charge evidence was legally justified.

On the contention that investigation was improperly conducted, the Court held that while exercising inherent jurisdiction, it only examines whether a prima facie case exists and does not evaluate the sufficiency or credibility of evidence. The verification conducted by officials, who found that suppliers did not exist at the given addresses, was sufficient at the prima facie stage. Issues relating to quality of investigation are matters for trial.

The Court also held that the decision in *Mukesh Singh v. State (Narcotic Branch of Delhi)* did not assist the petitioners, as it does not render departmental investigation invalid per se.

Finding no ground falling within the parameters for quashing, the High Court dismissed the petition. It clarified that its observations were confined to disposal of the petition and would not affect the merits of the trial.

Cases Referred

1. B.N. John v. State of U.P., 2025 SCC OnLine SC 7, Supreme Court of India.

2. State of Haryana v. Ch. Bhajan Lal, 1992 Supp (1) SCC 335, Supreme Court of India.
3. Ajay Malik v. State of Uttarakhand, 2025 SCC OnLine SC 185, Supreme Court of India.
4. Radhika Agarwal v. Union of India, (2025) 150 GSTR 121, Supreme Court of India.
5. Directorate of Enforcement v. Deepak Mahajan, (1994) 3 SCC 440, Supreme Court of India.
6. A.R. Antulay v. Ramdas Sriniwas Nayak, (1984) 2 SCC 500, Supreme Court of India.
7. Mukesh Singh v. State (Narcotic Branch of Delhi), AIR 2020 SC 4794, Supreme Court of India.

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