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**(2010) 09 AHC CK 0505**

**Allahabad High Court**

**Case No:** Criminal M.W.P. No. 17993 of 2010

Rajendra Pal Pathak

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision:** Sept. 23, 2010

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 120B, 420, 467, 468, 471
- Prevention of Corruption Act, 1988 - Section 13(1), 13(2)

**Citation:** (2011) 1 ACR 939

**Hon'ble Judges:** Surendra Singh, J; Amar Saran, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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**Judgement**

@JUDGMENTTAG-ORDER

Amar Saran and Surendra Singh, JJ.

Heard learned Counsel for the Petitioner, Shri N. I. Jafri, learned Counsel appearing for Respondent Nos. 3 and 4 and learned Additional Government Advocate representing the State.

2. A first information report has been lodged by the S.P./CB.I., E.O.U., New Delhi, which was registered at R.C.--712010 (E) 0002, u/s 120B read with Sections 420/467/468/471/477A/511, I.P.C. and 13(2) read with 13(1)(d) of P.C. Act, 1988 and substantive offences thereof alleging that the Executives/Directors of M/s. S. and S. Converges Private Limited entered into a criminal conspiracy with the Petitioner, who was the Branch Manager of the Central Bank of India, L.P.R.G. College Branch, Shyam Park, Sahibabad and unknown officials of New India Assurance Company Limited and others for issue of an ante dated pay order dated 30.7.2009 for Rs. 2.28.036 for issuance of insurance cover, and for causing wrongful loss to New India Assurance Company Limited for Rs. 3.40 crores against factory and stocks lying therein, which had lapsed on 30.4.2009 because a fire had broken out in the factory

premises on 31.7.2009.

3. It was submitted by the learned Counsel for the Petitioner that the Petitioner being the Branch Manager was only doing his duties and he has simply made out a pay order dated 30.7.2009 on the basis of which the policy was issued on the same day in favour of M/s. S. and S. Converges Private Limited. There was no basis for the assertion that the pay order or the policy was ante dated.

4. In our view this is a matter for appreciation by the investigating agency and the trial court as to whether the pay order and policy were ante dated. Prima facie a suspicion does arise as we find that the fire broke out on 31.7.2009 and the accused whose policy has expired on 30.4.2009 succeeded in getting the policy made on 30.7.2009 because of which a liability was cast on the New India Assurance Company to the tune of Rs. 3.40 crores. We also cannot lose sight of the fact that in the present case the F.I.R. was lodged by an officer of the rank of S.P., C.B.I., E.O.U., New Delhi and that he would have no good reason to make these allegations unless there was prima facie material for indicting the Petitioner and other co-accused.

5. Learned Counsel for the Petitioner has also drawn our attention to the policy which lapsed on 30.4.2009 and to the renewed policy, which was issued on 31.7.2009 at 00 hour on 31.7.2009.

6. Significantly the previous policy number, which is mentioned on the so-called new policy, which was issued on 31.7.2009 does not tally with the number in the new policy, which has been annexed to this petition. In any case, it is not for this Court to look at the defence documents.

7. Moreover, from the perusal of the F.I.R., prima facie it cannot be said that no cognizable offence is made out. Hence, no ground exists for quashing of the F.I.R. or staying the arrest of the Petitioner.

8. There is no force in this writ petition. It is accordingly dismissed with costs.