

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 535/2022

Nirmalya Bandyopadhyay

.... Petitioner/Appellant(s)

Through:- Mr. A.M. Dar, Sr. Advocate with
Mr. Danish Majid, Advocate.

V/s

U.T. of J&K and others

.....Respondent(s)

Through:- Mr. Sajad Ashraf, G.A.
Mr. Mohsin Qadri, Sr. AAG.

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

ORDER
29.12.2023

01. The petitioner is aggrieved of the summons dated 10.03.2022 issued by respondent Nos. 3 to 11 in connection with FIR No. 18/2022 under Sections 8, 21, 29 NDPS Act registered at Police Station, Batamaloo and seeks quashing of the same.

02. The petitioner submits that he is a renowned academician, highly qualified with two Master Degrees (MSC and MBA) and two Doctoral Degrees to his credit in the field of management, having served at the Indian Institute of Management (IIM), Rohtak. The petitioner is holding Ph.D in Management and is presently working at Foundation for Organizational Research and Education (FORE) School of Management in Delhi holding senior academic position.

03. The contention of the petitioner is that during the year 2018/2021, the petitioner exposed certain irregularities in the appointment of Dr.

Dheeraj Sharma as the Director, Indian Institute of Management (for short 'IIM') Rohtak. The documents which were obtained cast serious doubts about the genuineness of the credentials of the Director and also cast a shadow of doubt regarding the irregularities in the process of appointment.

04. A complaint was made by the petitioner to MHRD, CVC and CBI and in this regard, a case was also filed and admitted in the High Court of Punjab and Haryana in the year 2019 by an RTI activist, namely Amitava Chaudhuri.

05. This issue was widely reported and brought into public domain. The irregularities, which lead the petitioner to write to the government for enquiry into the same. These developments have resulted in acrimony between the aforesaid Director and those close to him and the petitioner, which has resulted in his implication in false case earlier also. It is also submitted by the petitioner that he was approached by many persons with vested interest, to not to proceed further regarding this issue but the petitioner did not pay any heed to them and this, according to him, has resulted in his being issued summon in a false and frivolous criminal case.

06. It is submitted by the petitioner that in order to harass and intimidate him, he was unnecessarily roped in FIR No. 18/2022 dated 08.02.2022 registered at Police Station, Batamaloo, when apparently he is not even remotely connected with the alleged incident in any manner. The petitioner submits that he received a call from a Police Officer regarding

the summons dated 10.03.2022, purportedly under Section 67 of NDPS Act, whereby he was asked to come to Srinagar on 25.03.2022.

07. The petitioner is aggrieved of the same and seeks quashing of the summons dated 10.03.2022 issued under Section 67 of the NDPS on the ground that the same were issued at the behest of some influential and unscrupulous elements, as he is not connected in any manner with the alleged incident which has resulted in registration of the aforesaid FIR.

08. Notice in this petition was issued on 25.03.2022, and it was directed that the operation of the impugned notice dated 10.03.2022 issued purportedly under Section 67 of NDPS Act should remain stayed until a reply is filed by the respondents.

09. The respondents, in their first status report dated 12.04.2022, have submitted that during the course of investigation, some suspicion arose regarding the role of some persons, including the petitioner in reference to the allegation and they were required to be examined and questioned, accordingly, a notice under Section 67 of NDPS Act was served upon him with a direction to appear before the Investigating Agency to unearth true facts as the interrogation was going on.

10. This Court vide order dated 13.09.2022, directed for filing fresh status report as the earlier report was filed in the month of April, 2022. In the fresh status report filed by the respondents on 15.11.2023, they have submitted that FIR No. 18/2022 under Section 8/21 of NDPS Act was registered at Police Station, Batamaloo, on the basis of information received through a reliable source that a consignment belonging to an unknown

person reached at Tangpora Bypass, which contains huge contraband substances. During the investigation, it was discovered that the said consignment contained contraband substances (codeine phosphate) sealed in 96 crates containing a total quantity of 2400 bottles (each bottle containing 100 ML). During the further investigation, a communication was made to the Department of Drug Control, Kashmir, to know about the authenticity of the licence bearing DL No. 208-5B-21798/21B-5B-21799, and the report revealed the said licence as fake, as no such licence has been issued by the office. It was revealed that in the seized bills communication, authenticity of GST No. was sought. It was revealed that GST No. was issued in the name of Sikandar Firdous Ahmed and he had prepared fake and forged documents in the name and style of M/s Sikander Pharma for purchasing and selling of illegal contraband amongst youth. During the course of investigation, the arrested accused Rameez Yousuf Dar had made a disclosure that in the year 201, he met Sikandar Firdous @ Gash Kootier and along with one Abid Hassan Dar started business of selling contraband substance and they managed fake license under M/s Sikander Pharma and Distributed Profits equally.

11. The investigation in the case was closed and charge sheet has been produced before the learned 4th Additional Sessions Judge, Srinagar on 20.08.2022 against the accused persons namely (i) Sikander Firdous Ahmed; (ii) Rameez Yousuf Dar; (iii) Abid Hassan Dar; (iv) Shabir Ahmad Mir; (v) Mohd. Afshan Jan and (vi) Owais Amin Bhat.

12. Although the respondents in first status report have stated that some suspicion arose on the role of the petitioner but in the 2nd status report, they have clearly stated that no FIR stood registered against the petitioner. No explanation is provided that if no FIR was registered against him and then why the summons were issued to him, when the entire case is regarding seeking of illegal contraband substance under the take and for goodness of pharma company which has no connection with the petitioner.

13. The respondents have failed to point out any connection of the petitioner in any manner with the incident which provides credence to the submission of the petitioner that he was unnecessarily roped in that he was not even present in the Union Territory or connected with the same in any manner and is without any substance.

14. As per the available record of Police Station, Batamaloo, it is stated that no FIR was registered against Dr. Nirmalya Bandyopadhyay. The investigation of the case has been completed and charge-sheet stands produced against the aforementioned six persons before the 4th Additional Sessions Judge, Srinagar on 28.08.2022 and as per the respondents, no FIR has been registered against the petitioner. The petitioner, thus, was not required to be summoned as he was neither mentioned in the FIR nor had he connection with the alleged offence.

15. In view of the aforesaid facts and circumstances and keeping in view the fact that no allegation is made against the petitioner and no FIR has been registered against him, the summons issued on 10.03.2022 to the

petitioner under Section 67 of the NDPS Act are without any basis. This petition is, accordingly, allowed and the impugned summons dated 10.03.2022 issued to the petitioner to appear before the SHO/IO Police Station, Batamaloo, under Section 67 of the NDPS Act, is quashed.

16. **Disposed of** accordingly.

(Sindhu Sharma)
Judge

Jammu:

Ram Murti/PS
29.12.2023

Whether approved for speaking	:	Yes/No
Whether approved for reporting	:	Yes/No

