

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

C.R.M-M No.29867-2015

Date of Decision: 03.12.2015

Dr. Sunil Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Alok Mittal and Mr. Manish Soni, Advocates
for the petitioner.

Mr.Chetan Sharma, A.A.G., Haryana.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for withdrawing the investigation of FIR No.184 dated 17.05.2015 from respondent No.6 and to entrust the same to some officer not below the rank of Assistant Director General of Police of Haryana.

By the petition the petitioner, who is a Sub-Inspector in the Haryana Police, has levelled allegations that the case was registered against him for oblique motives because he had refused to toe the line of the respondent No.4 in investigating a particular case. It has been alleged that the entire case has come up on the basis of illegal interception of the phones

of two persons with whom the petitioner has no connection.

In reply the allegations levelled by the petitioner were vehemently denied and it was averred that the case was registered against the petitioner on valid grounds.

Thereafter on 19.10.2015 the following order was passed:-

“In terms of the order dated 22.9.2015, explanation submitted by the Registry is accepted.

It is the case of the police that the phones of two persons were under interception in case FIR No.839 dated 29.9.2014 registered under Section 392 of the IPC at Police Station Civil Lines, Gurgaon from which the involvement of the petitioner in taking bribe was surfaced. Three questions which arise in this case are; (i) link of the two persons whose phones were intercepted with FIR No.839 supra, (ii) whether the interception was authorized by the competent authority; and (iii) if not, the value of such an interception.

Let the Commissioner of Police Gurgaon file his personal affidavit before the next date of hearing.

Adjourned to 29.10.2015. The trial Court is directed to adjourn the case to a date beyond the date fixed by this Court.”

Pursuant thereto the Commissioner of Police, Gurgaon filed his affidavit dated 26.10.2015. A perusal thereof indicates that the interception of the phones cannot be termed to be illegal. It is against the backdrop of these facts that this case has to be decided on the premise formulated by the Hon'ble Supreme Court in the case of ***State of Haryana and others vs. Ch. Bhajan Lal, 1992 AIR 604***. Viewed from that angle, it cannot be said that either the facts mentioned in the FIR do not disclose an offence or the case

registered is an abuse of the process of law.

Resultantly, without commenting on the merits of the case, the present petition is dismissed.

Since the main case has been decided, the Criminal Misc. Application, if any, also stands disposed of.

December 03, 2015
ashish

(AJAY TEWARI)
JUDGE