

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

**CRL. MISC. No.M-19711 OF 2016 (O&M)
DATE OF DECISION : 9th AUGUST, 2016**

R. N. Shukla

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Dr. Surya Parkash, Advocate with
Mr. Ashok Kumar Sharma (Bhana),
Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana and
Mr. Vikas Chopra, DAG, Haryana.

Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Arjun Shukla, Advocate for the complainant.

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A. B. CHAUDHARI, J. (ORAL)

The present criminal miscellaneous petition is rejected for reasons to follow.

I have heard learned counsel for the parties to find out the manner in which the investigation is being made in the subject FIR. This Court had on 13.06.2016 made an order directing investigation not to be made by any officer below the rank of Deputy Superintendent of Police and accordingly as stated by learned counsel for the State of Haryana the same is being conducted.

The FIR lodged by the complainant states that the complainant was lured by accused No.1-Rahul Chaturvedi to invest huge amount in his company for group housing in Sonipat Haryana. The correspondence

between the complainant and Rahul Chaturvedi was through e-mail as Rahul Chaturvedi was at New York. The case of the informant Subhash Verma is that he was asked to deposit the amount of ₹2,15,00,000/- with the present petitioner R. N. Shukla pursuant to their agreement about investment by Sh. Subhash Verma. There is e-mail correspondence between Rahul Chaturvedi and Subhash Verma in this behalf. Not only that Rahul Chaturvedi directed the informant to send the payment by RTGS to the accused No.2 and accordingly the payment was sent by the informant-complainant to the petitioner R. N. Shukla pursuant to the agreement. It appears that Rahul Chaturvedi then having got confirmed about the transmission of the RTGS payment as above, which is also confirmed by subsequent e-mail has now projected e-mail dated 01.08.2013 stating that it was decided to not continue any relationship with Gee Five as entity. Having thus collected the amount in crores, it is clear that Rahul Chaturvedi and petitioner R. N. Shukla had entered into conspiracy and designed a plot to collect ₹2,15,00,000/- by deceiving the complainant Subhash Verma.

The investigating officer has filed an affidavit in reply dated 03.07.2016 in which he has stated the following in paragraph 5 and 8 as follows:

“5. That during the course of interrogation, the interrogatories were put to the petitioner. The petitioner could not satisfy the investigating officer i.e. ACP DLF that how the amount of Rs.2,15,00,117/- has been used by him. Further, the petitioner also did not produce the proved standard signatures on 02.07.2016 despite the specific directions of this Hon’ble Court regarding the same. The petitioner requested the

investigating officer to give some more time to produce the said signatures as well as to produce the record of the amount used by him. Moreover, both the parties have not produced the original documents before the investigating officer as directed by this Hon'ble Court vide order dated 13.06.2016.

6. xxx..... xxx..... xxx.....

7. xxx..... xxx..... xxx.....

8. *That prima facie the version of the petitioner that the amount of Rs.2,15,00,117/- was given to him by the complainant as donation does not appear to be true as there are correspondents between the petitioner and Rahul Chaturvedi with whom the complainant planned to start business as mentioned in the FIR. However, as mentioned above, the investigation is being conducted intensely and diligently by the ACP DLF, Gurgaon in the present matter.”*

Looking to the above paragraphs this court asked the question to the learned State counsel as to why Rahul Chaturvedi was not being arrested when the investigating officer himself was satisfied about the correspondence as stated in paragraph 8 above.

The investigating officer through State counsel submits before this Court that Rahul Chaturvedi had shown the e-mail about cancellation of the agreement and hence he could not be said to have been a part of conspiracy. Prima facie in my opinion the investigating officer is clearly helping accused No.1- Rahul Chaturvedi instead of arresting him and finding out truth, though he himself has come to the conclusion as stated in

para 8 of the affidavit above. There is, therefore, reasons to believe that the investigating officer is not fair to the investigation being made right after this court made an order in June, 2016. This cannot be allowed.

In that view of the matter I direct the Director General of Police, Haryana to appoint higher officer in the rank of Inspector General of Police to take over the entire investigation and to find out the criminality against Rahul Chaturvedi and petitioner-R. N. Shukla and take such steps including arrest, in accordance with law, within a period of two days from today and make compliance.

Copy of this order be supplied to learned State counsel for compliance.

In the second session I had pronounced the order of the rejection of petition for anticipatory bail of R. N. Shukla. I record the following reasons for doing so.

I have perused the entire FIR carefully. Learned counsel for the petitioner vehemently argued that amount of ₹2,15,00,000/- was received by the petitioner was towards donation by the informant/complainant and accordingly there is a donation receipts as well as income tax rebate certificate issued. He, therefore, submits that informant-Subhash Verma had donated ₹2,15,00,000/- with the petitioner's foundation and there was no commission of offence.

Since the FIR was lodged by Subhash Verma his counsel vehemently objected to the submission about donation and he submitted that the complainant/informant has no concern with the petitioner or his foundation nor there was question of giving donation in a huge sum of ₹2,15,00,000/- nor there is evidence to show that there was any request for donation or any appeal to give donation.

On the contrary, according to the counsel for the complainant there are contemporaneous documents on record in the form of e-mails and correspondents between the complainant-Subhash Verma and accused No.1 and 2 that the complainant was lured to pay ₹2,15,00,000/- in all to the petitioner through RTGS in the absence of any reference to any donation to be given by the complainant-Subhash Verma. The story cooked up by the petitioner is nothing but hoax.

In reply learned counsel for the petitioner vehemently argued that the petitioner has merely accepted donation and the attempt to convert the same into offence of cheating etc. is clearly malafide and baseless. According to him the contract was cancelled by Rahul Chaturvedi with the complainant, therefore, there was no question of any link between Rahul Chaturvedi and the petitioner and the petitioner has unnecessarily been made accused.

I have perused the entire FIR carefully. I have seen all documents placed before me by learned counsel for the petitioner as well as the complainant. I have seen the affidavit filed by the Sh. Deepak Saharan, HPS, Deputy Commissioner of Police, East, Gurgaon.

Perusal of paragraphs 5 and 8 of the reply as reproduced above shows that the custody of the petitioner so also that of Rahul Chaturvedi is very much essential for finding out the truth and the conspiracy and the plot hatched by the petitioner and accused No.1-Rahul Chaturvedi. There is prima facie evidence against the petitioner that on the instructions of accused No.1 he was party to the conspiracy in receiving the payment through RTGS in his accounts. There is no dispute that he has received the payment in a sum of ₹2,15,00,000/-.

This court has specifically questioned to counsel for the petitioner as to whether he was ready to pay back the entire amount to the complainant to which the petitioner did not agree. The petitioner has taken a stand that the complainant has given donation of ₹2,15,00,000/- when as a matter of fact there is nothing to show that petitioner had made any appeal to him or the respondent-complainant had referred any donation in the correspondence. The petition for grant of bail must be rejected and is accordingly rejected.

9th AUGUST, 2016
‘raj’

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes</i>	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	<i>No.</i>