

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

**CRM-M-32467 of 2015**  
**Date of Decision: February 19, 2016**

Purshottam Dass Soni ...Petitioner

Versus

State of Haryana ...Respondent

**CRR No.3410 of 2015**

Purshottam Dass Soni ...Petitioner

Versus

State of Haryana ...Respondent

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. S.K. Tripathi, Advocate  
for the petitioner in both the petitions.

Mr. Munish Sharma, AAG, Haryana for respondent  
in both the petitions.

Mr. D.S. Sukrachakia, Advocate  
for the complainant in both the petitions.

**FATEH DEEP SINGH, J.**

Since both these matters are inextricably intertwined  
based on same criminal case are, thus, being decided together for  
prevention of prolivity.

A case by way of FIR No.143 dated 14.5.2007 under

Sections 420,448,380 IPC with Police Station, City Rewari was registered against one Parshotam Dass Soni (referred to as petitioner herein) on the complaint of Rawati Devi. The precise allegations against the accused are that accused had prepared a forged sale deed of the house of the complainant and after forcibly breaking open the locks on 25.4.2007 has taken possession of the house along with his accomplices and on the other hand claiming that neither she ever executed a registered sale deed or a lease deed in favour of her son Basheshar Singh with whom she allegedly was not having cordial relations. During the course of trial, a criminal petition No.5961 of 2014 titled as Purshotam Dass vs. State of Haryana was preferred before this Court by the accused, now petitioner whereby, this Court vide order dated 13.2.2015 had stayed passing of final judgment by the trial Court till further orders. From the records of the case, it is reflected that certified copy of this order has been received by the learned trial Court of Chief Judicial Magistrate, Rewari which is well elaborated even in the interim order of that Court dated 24.2.2015. Furthermore, this order as is reflected from the records was forwarded by this Court vide court's endorsement dated 16.2.2015. It is necessitated to refer here that even at the time of issuance of notice of motion on 18.2.2014 this Court has passed the orders directing the trial Court to adjourn the proceedings beyond the date fixed which orders too were communicated to the Court concerned. Thus, from it all stands reflected that the trial Court was fully aware of the pendency of the petition before this Court as well as it has been intimated regarding the orders passed by this Court from time to time. This fact as to the stay can even be gathered from the interim orders dated 28.11.2014, 05.12.2014, 12.12.2014 and 15.12.2014.

It was much thereafter, on 18.2.2015 trial Court inspite of stay orders pronounced its judgment remaining in oblivion to

the fact that this Court had already stayed the pronouncement of final judgment as has been contended on behalf of the petitioners. What is most astonishing is that on 18.2.2015 after conviction of the petitioner Parshotam Dass the matter was adjourned to 19.2.2015 for hearing the convict on the quantum of sentence and it is against this judgment of conviction before any final order on the quantum of sentence could be passed accused had filed an appeal before the learned Additional Sessions Judge, Rewari challenging this judgment and sought his acquittal. Furthermore, it is necessary to highlight here that even it is reflected from the records of the case of the Court below that on this date i.e.19.2.2015 photocopy of this order dated 13.2.2015 of this Court was placed on the records of the Court below and that inspite of satisfying itself if there was any such occasion the learned Chief Judicial Magistrate, Rewari had insisted on placing a certified copy of this order and has even directed the COC of that Court to verify the said order and the matter was thereafter, adjourned and which is also reflected from the orders dated 18.9.2015. In between on account of non-appearance of the accused-petitioner had led to issuance of warrants of arrest against him and which led to filing of another CRM-M No.32467 of 2015 in which order dated 23.9.2015 were passed by this Court. The disobedience of the orders dated 29.7.2015, 14.8.2015, 24.8.2015, 31.8.2015 is reflected from the file of the trial Court as is also detailed from the interim orders of the trial Court dated 24.9.2015 and 25.9.2015.

It is as a consequence of these proceedings before the trial Court has led to the filing of these two matters i.e. CRR No.3410 of 2015 by the petitioner-accused whereby, he has challenged an order dated 11.8.2015 passed by learned Additional Sessions Judge, Rewari, whereby, the learned lower Appellate Court taking cognizance

of the order of this Court and had only issued notice to the respondent-State and in which nothing further has transpired and which has come to be challenged by the accused-revisionist in CRR No.3410 of 2015 i.e order of learned Additional Sessions Judge, Rewari against judgment of conviction dated 18.2.2015 and in another petition under Section 482 Cr.P.C. read with Article 227 of Constitution of India accused-petitioner Parshotam Dass has sought setting aside of orders dated 11.9.2015 of learned Chief Judicial Magistrate, Rewari Annexure P/14 whereby, on account of non-appearance of the accused had preferred to move an application seeking exemption from personal appearance was declined, bail orders were cancelled, bail bonds were ordered to be forfeited and non-bailable warrants of arrest were issued including notice to the surety and further the directions were issued to the concerned Station House Officer for executing the same. Since both the matters are so inter linked and finding on one will have bearing on the other as well as for the sake of brevity and better understanding of the facts necessitates disposal of both these petitions together.

Heard. It is undisputedly clear that this Court vide orders dated 13.2.2015 had passed the following orders in CRM-M-5961 of 2014:-

“\_ \_ \_ At the same time, passing of the final judgment by the trial Court is hereby stayed, till further orders.”

and which admittedly was in operation when the impugned findings were delivered by the Court below, whereby, convicting the petitioner-accused and postponing the matter for hearing on the quantum of sentence.

Similarly in CRM No.5962 of 2014 this Court had passed the following orders:-

“\_ \_ \_ In the meanwhile, the trial Court will adjourn the proceedings beyond the date fixed\_ \_ \_ \_”

Which means that even in that proceeding the proceedings before the trial Court were stayed till the next date. Moreover, both these matters i.e. CRM-M Nos.5961 and 5962 of 2014 were ordered to be listed together by order dated 18.2.2014. At no point of time these orders as per the contentions of the two sides were ever vacated or ceased to be in operation. Furthermore, the petitioner as per the legal advice has challenged the judgment of conviction dated 18.2.2015 of learned Chief Judicial Magistrate, Rewari by way of criminal appeal in which impugned orders dated 11.8.2015 were passed by the learned Additional Sessions Judge, Rewari. Learned Additional Sessions Judge has failed to appreciate the transgression made by the learned Chief Judicial Magistrate who has tried to obviate the orders of this Court inspite of due knowledge and intimation of the same and which also forms the sole reason for the learned Additional Sessions Judge to pass this impugned order dated 11.8.2015 declining any relief to the petitioner in the light of order of conviction having already been passed by the trial Court.

Thus, the sole question that comes up before this court in these petitions is whether the learned Courts below in their spirit of dispensation of justice have exceeded their jurisdiction quite in oblivion to the said orders passed by this Court and the likely result of such an intentional lapse on the part of the presiding Officer of the trial Court. The general principle is that once a stay order has been passed should be deemed to take effect as soon as it is passed irrespective whether it is communicated or not. Since such order of stay both in CRM Nos. 5961 and 5962 of 2014 were meant for the Court, wherein no one else is involved in for obedience being served immediately and becomes effective without even communication to the Court concerned. In this case it is writ large on the records that these orders of stay were

well communicated by this Court to the Court below and which apparently has set up a subterfuge to escape such a serious misconduct on the part of the Presiding Officer to the orders of the higher Court. Thus, to the mind of this Court even if such a Court proceeds with the case showing ignorance what to say of being in knowledge of the stay order such a Court will not only render itself liable to administrative action which is quite independent but also the result of whatever proceedings are made consequent after passing of the stay order which will be deemed to be without jurisdiction and, thus, a nullity. Thus, as soon as this Court passed order in the present case on 13.2.2015 and 18.2.2015 as the case may be the learned Chief Judicial Magistrate, Rewari and even the learned Appellate Court of learned Additional Sessions Judge, Rewari both were divested of their jurisdiction to pronounce any further order and, therefore, the judgment of conviction is a nullity which the learned Chief Judicial Magistrate acted without jurisdiction and his decision has, thus, ceased to hold good being a mere nullity and needs to be outrightly disregarded. Such orders are certainly not immune to review by way of revision or petition under Section 482 Cr.P.C. as it is the very basic fundamental rule of law that stood destroyed by such an outrageous conduct of the Court below. Furthermore, orders dated 11.9.2015 issued by learned Chief Judicial Magistrate, Rewari by way of issuance of non-bailable warrants of the petitioner consequent upon passing of stay order by this Court are also without jurisdiction and needs to be set aside, therefore, the orders cancelling the bail and forfeitures of bail bonds are outrightly set aside holding that same too were exercised without jurisdiction. Exercising inherent power this Court deems it appropriate to hold that all the orders passed by the Court below subsequent to the stay order of this Court are a nullity whatever consequences they may be of.

In the light of this intentional gross misconduct and total arrogance by then learned Chief Judicial Magistrate, Rewari as well as his utter disrespect and disregard to judicial orders of Superior Court entails not only initiation of contempt of Court proceedings as well as separate administrative action against him. Registrar Judicial to do the needful as per law and rules. The same be also intimated to the Hon'ble Administrative Judge, wherever, this officer is presently posted.

In the light of what has been discussed and detailed above all the impugned orders/judgment of conviction passed by the Court below are hereby set aside and, thus, quashed. Both the instant petitions stand allowed in those terms.

Copy be sent to Registrar Judicial for necessary compliance as well.

**(FATEH DEEP SINGH)**  
**JUDGE**

**February 19, 2016**  
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