

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

**CWP No. 3802 of 2017 (O&M)
Date of decision: 16.03.2017.**

Ashvin

..... Petitioner

Versus

Union of India and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Mr. Robin Singh Hooda, Advocate, for the petitioner.
Mr. Pawan Girdhar, Addl. A.G. Haryana for the State

S.S. SARON, J.

The civil writ petition has been filed by the petitioner under Articles 226/227 of the Constitution of India seeking quashing of the notification dated 30.09.2016 (Annexure P-3) issued by the State of Haryana (respondent No.2) under Section 6 of the Delhi Special Police Establishment Act, 1946 ('Act' - for short) whereby consent has been accorded to extend the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Haryana for investigation of case FIR No.118 dated 27.2.2016 registered at Police Station Urban Estate, Rohtak for the offences under Sections 148, 149, 186, 188, 124-A, 353, 450, 427, 436, 307, 395 and 120-B Indian Penal Code ('IPC' - for short), besides, Section 25 of the Arms Act; and also quashing the notification dated 06.10.2016 (Annexure P-4) issued by the Union of India (respondent No.1) in exercise of powers conferred by sub Section (1)

of Section 5 read with Section 6 of the Act whereby the Central Government with the consent of the Haryana State Government has extended the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Haryana for investigation of the aforesaid FIR.

The petitioner submits that Rohit Sindhu (respondent No.7) lodged a complaint at Police Station Urban Estate Rohtak on which aforesaid FIR No.118 dated 27.02.2016 was registered against 40 persons including the petitioner for offences under Section 25 of the Arms Act, Sections 120-B, 148, 149, 186, 188, 307, 353, 395, 427, 436 and 452 IPC; besides, Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984. The allegations that were levelled in the said FIR were that the rioters had attacked the house of Capt. Abhimanyu, Finance Minister, Haryana situated at Sector-14, Rohtak. They had damaged his house properties and vehicles. Specific names, it is submitted were mentioned in the FIR. The police investigated the case and submitted its report ('challan') in the Court of Additional Chief Judicial Magistrate, Rohtak under Section 173 (2) of the Code of Criminal Procedure ('Cr.P.C' - for short). The report was submitted against 40 persons including the petitioner. The Additional Chief Judicial Magistrate, Rohtak committed the case to the competent Court on 17.08.2016. Thereafter the case was pending before the Court of learned Additional Sessions Judge, Rohtak.

The CBI filed an application in the Court of the learned Additional Sessions Judge, Rohtak for keeping the proceedings in the FIR in abeyance. It was inter alia stated by the CBI that it had registered FIR

No.RCCHG512016S0014 dated 06.10.2016 with respect to FIR No.118 dated 27.02.2016 registered at PS Urban Estate, Rohtak; besides, it had registered FIR No. RCCHG512016S0013 with regard to FIR No.45 dated 21.02.2016 registered at PS PGIMS Rohtak for the offences under Sections 148, 149, 186, 188, 283, 307, 332, 341, 353, 427 and 436 IPC, as also, Section 8-B of the National Highways Act and Section 25 of the Arms Act. The learned Additional Sessions Judge, Rohtak on 15.10.2016 (Annexure P-2) adjourned the case for consideration of the application for keeping the proceedings of the case in abeyance. It is submitted that the investigating officer or any higher officer did not move any application before the Court of the Additional Chief Judicial Magistrate, Rohtak for any fresh investigation or any further investigation. The learned Additional Chief Judicial Magistrate also did not take any *suo motu* action for further investigation or fresh investigation. In fact the Court was satisfied with the investigation carried out by the police and had committed the case to the competent Court.

Amongst the grievances raised by the learned counsel appearing for the petitioner during the course of hearing is that the State Government though had issued notification dated 30.09.2016 (Annexure P3) giving its consent in terms of Section 6 of the Act for conducting investigation by the CBI in case FIR No.118 dated 27.02.2016 registered at Police Station Urban Estate Rohtak relating to offences under Sections 148, 149, 186, 188, 124-A, 353, 450, 427, 436, 307, 395, 120-B IPC as also Section 25 of the Arms Act; however, the CBI it is submitted has also registered FIR No. RCCHG512016S0013 with regard to the other FIR

No.45 dated 21.02.2016 registered at PS PGIMS Rohtak for the offences under Sections 148, 149, 186, 188, 283, 307, 332, 341, 353, 427 and 436 IPC as also Section 8-B of the National Highways Act and Section 25 of the Arms Act for which there was no extension of powers by the State of Haryana.

Learned counsel for the State has submitted that the State of Haryana issued necessary notification No.20/3/2012-4HGI (III) dated 30.09.2016 giving consent to the extension of powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of State of Haryana for investigation of FIR No.45 dated 21.02.2016 registered at Police Station PGIMS, Rohtak under Sections 148, 149, 186, 188, 283, 307, 332, 341, 353, 427 and 436 IPC as also Section 8-B of the National Highways Act and Section 25 of the Arms Act pertaining to the offences of criminal conspiracy, rioting, obstructing public servant in discharge of public function, dis-obeyance of order, attempt to murder, assault etc. and attempts, abetments and conspiracies in relation to or in connection with the offences mentioned and any other offence or offences committed in the course of the same transaction or arising out of the same facts, as well. Thereafter, the Government of India issued necessary notification dated 06.10.2016 in exercise of powers conferred by Sub-Section (1) of Section 5 read with Section 6 of the Act with the consent of the State of Haryana extending the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Haryana for investigation of FIR No.45 dated 21.02.2016 registered at Police Station PGIMS, Rohtak under Sections 148, 149, 186, 188, 283, 307, 332, 341, 353, 427 and 436

IPC as also Section 8-B of the National Highways Act and Section 25 of the Arms Act pertaining to the offences of criminal conspiracy, rioting, obstructing public servant in discharge of public function, dis-obeyance of order, attempt to murder, assault etc. and attempts, abetments and conspiracies in relation to or in connection with the offences mentioned and any other offence or offences committed in the course of the same transaction or arising out of the same facts, as well. The said notification dated 30.09.2016 and 06.10.2016 issued by the State of Haryana and the Government of India respectively are a part of Criminal Misc. No.M-44929 of 2016 titled 'Central Bureau of Investigation v. State of Haryana' from which these have been shown.

Learned counsel for the petitioner after perusing the said notifications dated 30.09.2016 and 06.10.2016 issued by the State of Haryana and the Government of India respectively is satisfied that the necessary notifications stand issued.

In view thereof, it is submitted by learned counsel for the petitioner that he may be allowed to withdraw the petition with liberty to assail the notifications relating to FIR No.45 dated 21.02.2016 registered at Police Station PGIMS, Rohtak as well by filing a writ petition by giving necessary particulars for assailing the same.

The writ petition is accordingly dismissed as withdrawn with liberty to the petitioner to assail the notifications dated 30.09.2016 and dated 06.10.2016 whereby consent has also been given by the State Government for investigation of case FIR No.45 dated 21.02.2016 registered at Police Station PGIMS Rohtak along with notification dated

30.09.2016 (Annexure P-3) and 06.10.2016 (Anexure P-4) relating to FIR
No.118 dated 27.02.2016 registered at Police Station Urban Estate Rohtak.

(S.S. SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

16.03.2017
Ramesh

Note:

1.	Whether reasoned/speaking	:	Yes
2.	Whether reportable	:	No