

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-11531 of 2019

Date of Decision: 15.05.2019

Pawan Sharma

... Petitioner(s)

Versus

Union Territory, Chandigarh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Sandeep Sharma, Advocate
for the petitioner(s).

Mr. Rajiv Viz, Additional Public Prosecutor,
U.T. Chandigarh for the respondent.

Shekher Dhawan, J.

Present petition under Section 482 Cr.P.C. is challenge to the order dated 09.01.2019 (Annexure P3), passed by the learned Additional Sessions Judge, Chandigarh, whereby revision petition, filed by the petitioner was dismissed and order dated 20.03.2017 (Annexure P1), passed by the learned Additional Chief Judicial Magistrate, Chandigarh, whereby application, filed by the petitioner for releasing him currency notes of Rs.1,60,000/-, as recovered from the accused, on *sapurdari*, was dismissed.

Learned counsel for the petitioner contended that in case FIR No. 294 dated 09.12.2014, registered under Sections 407 & 473 IPC at Police Station Sector 26, Chandigarh, accused were arrested on 20.02.2015 and currency notes of Rs.1,60,000/- were recovered from them. Investigation in the case was completed, report under Section 173 Cr.P.C. was submitted

in the learned trial Court and charges have been framed against the accused persons. Petitioner-Pawan Sharma, who is complainant in this case, appeared before the learned trial Court as PW.1 and as per his statement, currency notes of Rs.1,60,000/- belong to him as the same was sale proceeds of the apples. An application for release of those currency notes on *sapurdari* was declined by the learned Additional Chief Judicial Magistrate, Chandigarh vide order dated 20.03.2017, though the local police had made report that they have no objection if the same are ordered to be released in favour of the petitioner. Revision petition filed by the petitioner against the said order was also dismissed by the learned Additional Sessions Judge, Chandigarh vide order dated 09.01.2019. Learned counsel for the petitioner further contended that petitioner is ready to furnish bank guarantee/surety bonds and he has suffered financial loss since 2014.

During the course of arguments, learned counsel for both the parties fairly conceded that statement of petitioner/complainant-Pawan Sharma i.e. examination-in-chief as well as cross-examination has already been completed. Learned Additional Chief Judicial Magistrate dismissed the application for releasing currency notes to the petitioner on *sapurdari* mainly on the ground that statement of complainant-Pawan Sharma and especially his cross-examination is yet to be completed. But the same is now complete otherwise. No purpose would be served if the currency notes are allowed to be retained in treasury because with the passage of time, its utility and value are bound to decrease. The complainant has already made statement before the learned trial Court as PW.1 and as a record, photocopy of the currency notes can be maintained with the judicial file and thereafter, the currency

notes be released to him after furnishing adequate bank guarantee to the satisfaction of the learned trial Judge.

In view of above, present petition stands accepted and order dated 09.01.2019 (Annexure P3), passed by the learned Additional Sessions Judge, Chandigarh and order dated 20.03.2017 (Annexure P1), passed by the learned Additional Chief Judicial Magistrate, Chandigarh are set aside. The currency notes of Rs.1,60,000/- are ordered to be released to the petitioner/complainant on *sapurdari* with usual terms & conditions on his furnishing an adequate bank guarantee to the satisfaction of the learned trial Judge and after retaining photocopy thereof on the judicial record.

(Shekher Dhawan)
Judge

May 15, 2019
“DK”

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No