IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26862 of 2017 (O&M)
Date of Decision: 17.10.2019

Amit Taneja ....Petitioner

VERSUS

State of Haryana ...Respondent

CRM-M-26884 of 2017 (O&M)

Stuart Crighton ....Petitioner

VERSUS

State of Haryana ...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amandeep S. Talwar, Advocate
for the petitioners in both the petitions.

Mr. Munish Sharma, AAG Haryana.

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SURINDER GUPTA, J.

Petitioners seek quashing of order dated 15.06.2017 (Annexure P-1) passed by Judicial Magistrate Ist Class, Gurugram, whereby application of petitioners seeking mirror images of hard-drive seized during investigation was declined.

2. Vide application (Annexure P-16 in CRM-M-26884-2017), petitioners requested for supply of mirror images of hard-drives relied upon by the prosecution. The plea taken by petitioners in their application in paras 2 to 6 are as follows:-

> *"2. The applicants herein being the accused nos. 1-4 had preferred an application dated 29.11.2016 seeking supply of mirror images of the hard-drives as seized by*

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the Investigating Agency during the investigation being documents in electronic form (digital data) alongwith DVD's and CD's mentioned at serial no. 21 i.e. D-3 to D-6 and D-8 and D-21 as shown in the application under Section 207 Cr.P.C. and documents as specifically mentioned as 'Parcel-1, Parcel-2, Parcel-3 and Parcel-4' alongwith Enclosure (i), Enclosure (ii) comprises of Annexure-I to Annexure-IV and Enclosure (iii) comprises of one CD in the FSL report dated 23.06.2010.

3. *This Hon'ble Court vide order dated 15.02.2017 has taken on record the concession made by the Prosecuting Agency regarding CD's accompanying the Police Report under Section 173 Cr.P.C. As such it stands recorded that the CD, which was not working has been given up.*

4. *This Hon'ble Court has however not dealt with the mirror images of the Hard Drives as seized during the investigation from the accused persons and continues to be relied upon by the Prosecuting Agency.*

5. *In view of the extracted 8990 pages being relied upon alongwith the charge-sheet, the mirror images of the Hard Drives also require to be provided to the accused before proceeding to hear the arguments on charge. Alternatively the Prosecuting Agency having already given up the CD, can also choose to give up the Hard Drives of all the electronic devices seized, thus*

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rendering their mirror images as redundant and not necessary to be provided to the accused persons in compliance of Section 207 Cr.P.C.

6. It is submitted that compliance of order dated 27.07.2015 passed in CRM-M-13833 of 2013 by the Hon'ble Punjab and Haryana High Court would entail providing the applicants/accused all relied upon material by the Prosecuting Agency including the Mirror Images of the Hard Drives and this Hon'ble Court would hear arguments on charge only after such compliance. The non-supply of the said mirror images of the Hard Drives will cause great prejudice to the applicants and would further lead to an unfair trial."

3. They moved another application dated 31.05.2017 for direction to prosecution to supply documents at serial no. 7, 9 and 10 to 12 of the list of documents filed with the charge-sheet.

4. The above applications were disposed of by learned Judicial Magistrate Ist Class, Gurugram vide order dated 15.06.2017 with the observations in para 6 and 7 as follows:-

"6. After hearing both counsel, it can be said that admittedly statutory compliance of Section 207 Cr.P.C. has to be made, before the Court arrives at consideration on charge and even Hon'ble High Court v.o.d. 27.07.2015 in CRM-M No. 13833 of 2013 and 04.05.2015 in CRM-M No. 14061 of 2015 directed this Court to supply all the documents. While, all the extracts as taken by hard

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drive or compact disc has been supplied to the accused, there remains nothing more and hard disc in original form cannot be supplied being case property. Admittedly, the compact disc was given up and hence, it can be said that all the documents as relied by prosecution, being part and parcel of challan have been supplied to accused. Even on 27.10.2016, followed by 17.11.2016, it was recorded in order-sheet that all the documents except the DVD were supplied, which was eventually given up by prosecution v.o.d. 15.02.2017. Now once all the remaining documents have been supplied to the defence, there remains nothing and application has been moved just to buy time and linger on the matter for one reason or the other.

7. Perusal of the file reflect that FIR no. 572 was lodged in the year 2009 under Sections 419/420/406/120-B read with Section 66/66 (1)/66 (2) of Information Technology Act in P.S. Civil Lines, however on one excuse or other, repeated applications have been moved including the above two, which have no merit. Resultantly, both applications stand declined and case be posted for 12.07.2017 for consideration on charge."

5. Learned counsel for petitioners has mainly focused on non-supply of mirror images of Hard Drives seized during investigation by the police. Learned trial Court has observed that all the extract as taken from Hard Drives have been supplied to accused. It also took note that all the

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documents as relied upon have been supplied and there remains nothing to be supplied to petitioners. Learned counsel for petitioners does not deny that extract of Hard Drives as relied by the prosecution have been supplied. He has, however, insisted on supply of mirror images of entire Hard Drive.

6. Section 207 Cr.P.C. reads as follows:-

> ***"207. Supply to the accused of copy of police report and other documents*** *- In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:-*
>
> *(i) the police report;*
>
> *(ii) the first information report recorded under section 154;*
>
> *(iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub- section (6) of section 173;*
>
> *(iv) the confessions and statements, if any, recorded under section 164;*
>
> *(v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub- section (5) of section 173:*
>
> *Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the*

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request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court."

7. It is evident from perusal of above provision that Magistrate has to supply documents as mentioned in sub-clause (i) to (v) and no other document. It is specifically provided under the above provision that relevant extract forwarded to the Magistrate with the police report will be provided to accused. In this case learned Magistrate has already supplied extract taken from the hard-drive, which has been relied upon by the prosecution. The entire hard-disc having capacity of many GBs, has not been relied upon by the prosecution, as such, no question for supplying its mirror images arises and learned Magistrate has rightly declined the application of petitioners to this effect.

8. I find no reason to interfere with the well reasoned order passed by learned Magistrate.

9. These petitions have no merit and the same are dismissed.

(SURINDER GUPTA)
JUDGE

October 17, 2019
jk

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No

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