

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35702-2017 (O&M)

Date of decision: 26.03.2019

Mukesh Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing of the order dated 03.05.2017 (Annexure P-1) passed by the trial Court as well as the judgment and order dated 24.07.2017 (Annexure P-2) passed by the revisional Court, vide which the application filed by the petitioner, for releasing the case property i.e. Rs.11,79,000/-, was declined.

Brief facts of the case are that on receiving a secret information on 28.11.2016 that a car bearing registration No.HR-22K-6770 was coming from the side of Delhi, it was intercepted by the police party, driver of the car disclosed his name as Mukul son of Jagmohan and the person sitting on co-driver seat disclosed his name as Mukesh Kumar (petitioner). On search

of the car, the police party recovered currency notes in the old denomination for Rs.11,79,000/- ($715 \times 1000 + 928 \times 500 = 11,79,000/-$). The amount was forfeited by the police and FIR No.1092 dated 01.12.2016 was registered under Sections 379, 411, 420 IPC, at Police Station Hisar City, District Hisar. After completion of the investigation, challan stands presented before the trial Court.

Learned counsel for the petitioner submits that since there was a General Order issued by the Govt. of India that by 31.12.2016, the cash currency in possession of the police be deposited in the Govt. Treasury, the aforesaid amount of Rs.11,79,000/- was deposited in the Govt. Treasury, vide treasury challan dated 21.12.2016, after retaining the details of currency notes.

Thereafter, the petitioner moved an application for releasing the aforesaid amount on superdari, however, the said application was dismissed by the trial Court, vide order dated 03.05.2017. The petitioner preferred a revision petition before the Court of Additional Sessions Judge, Hisar and the same was also dismissed. Present petition has been filed challenging the aforesaid orders.

Learned counsel for the petitioner further submits that immediately after seizing of the currency notes in the old denomination of Rs.1,000/- and Rs.500/-, the Chief Judicial Magistrate passed an order on 13.12.2016, which reads as under: -

“An application for depositing the currency notes of Rs.500/- and Rs.1000/- has been moved by SHO, P.S. City Hisar.

Keeping in view the averments made in the application that notes of Rs.500/- and Rs.1000/- shall lose their value as per the order of the Government of India by 31st December, 2016, the SHO, P.S. City Hisar has submitted list of 17 cases pertaining to Police Station, Hisar City, of which the undersigned is Illaqa Magistrate, for passing appropriate order.

*In view of the averments made in the application, the SHO, P.S. City Hisar directed to prepare the inventory of the notes of the cases mentioned in the list **except the cases triable by the Court of Sessions and the cases in which the recovered currency is sealed** take their photographs/photocopy and thereafter, deposit the same as per rules retaining all the record.*

*Sd/-
(Manpreet Singh)
CJM/Hisar/13.12.2016.”*

Thereafter, in compliance of the said order, the Investigating Officer deposited the aforesaid amount in the Govt. Treasury, after retaining the details of currency notes. It is thus submitted that since the petitioner was in possession of currency notes and the said currency stood deposited in the Govt. Treasury in order to convert the same into new currency, there will be no dispute with regard to identify of the old currency recovered from the petitioner, as the police has already deposited the same, after retaining the details thereof. Learned counsel has relied upon an order dated 27.07.2017 passed by this Court in **CRR-4515-2016 (Preeti Khanna Vs. State of**

Punjab), wherein in similar situation, currency notes recovered from the accused person in the value of Rs.24,10,300/- were ordered to be released in favour of the accused.

Reply by way of affidavit of DSP, HQ, Hisar is on record and in para No.3 of this reply, it is admitted that after seeking permission from the Chief Judicial Magistrate, the currency notes, which were involved in 17 different cases/FIRs, was deposited in the Govt. Treasury on the basis of order issued by the Govt. of India that by 31.12.2016, the amount lying with the police be deposited, after preparing an inventory of the cases. It is further stated in the reply that the amount was deposited in the Govt. Treasury and copy of the order dated 13.12.2016, copy of e-treasury challan issued by the Govt. of Haryana as well as the inventory regarding deposit of the currency notes of Rs.1,000/- and Rs.500/- in 17 different cases prepared by SHO, Police Station City Hisar dated 12.12.2016 are also attached with this affidavit.

After hearing learned counsel for the parties, I find merit in the present petition.

Admittedly, the amount was recovered from the petitioner and it is yet to be decided during the trial whether he was holding the amount in a legal or an illegal manner.

There could not be any dispute regarding identify of the currency recovered from the petitioner, as the police has already prepared an inventory, deposited the currency notes in the Govt. Treasury and the same were converted into new currency.

In view of the above, I find that the approach adopted by the Courts below in declining the prayer of the petitioner is not sustainable.

Accordingly, this petition is allowed and the impugned order dated 03.05.2017 (Annexure P-1) passed by the trial Court as well as the order dated 24.07.2017 (Annexure P-2) passed by the revisional Court are hereby set aside. The trial Court is directed to release the amount of Rs.11,79,000/- in favour of the petitioner on furnishing his personal bond and surety bond to the equivalent value of the case property.

[ARVIND SINGH SANGWAN]
JUDGE

26.03.2019
vishnu

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