

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-37212 of 2017 (O&M)

Date of decision: 19.08.2019

UT, Chandigarh

..... Petitioner

Versus

Krishan Garg and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sukant Gupta, Addl. PP for UT, Chandigarh.

ANIL KSHETARPAL, J. (ORAL)

Although, no notice in the petition has been issued, however, this Court is of the opinion that in view of the fact that the respondents-accused had given no objection to the prayer made before the Revisional Court, therefore, issuance of notice is not necessary.

An FIR No.348 dated 26.08.2014 under Sections 420, 467, 468, 471 of the Indian Penal Code, at Police Station Manimajra, UT, Chandigarh was registered. An anticipatory bail application was filed by Krishan Garg-respondent No.1. During the pendency of the aforesaid petition, this Court directed the Duty Magistrate to visit the residence of Nirmala Devi and get her statement recorded. A Doctor was also directed to accompany the Duty Magistrate. The order dated 04.08.2015 passed in CRM-M-35864-2014 is extracted as under:-

“Petitioner has sought pre-arrest bail in a case registered against him under Sections 420/467/468/471 IPC vide FIR No.0348 dated 26.08.2014 at Police Station Manimajra, Chandigarh.

During the pendency of this case, a coordinate Bench (Kuldip Singh, J) had directed that statement of mother of the petitioner (Nirmala Devi) be recorded by the Duty Magistrate at her residence. A doctor was also directed to accompany the Duty Magistrate. Pursuant to the said order, statement of Nirmala Devi recorded under Section 164 Cr.P.C. has been forwarded to this Court in a sealed cover.

Petitioner has already joined investigation pursuant to order dated 17.10.2014. Under the circumstances, no further direction from this Court is necessary. Order dated 17.10.2014 is hereby made absolute subject to conditions envisaged under Section 438(2) Cr.P.C.

Report received under Section 164 Cr.P.C. be forwarded to the concerned Illaqa Magistrate in a sealed cover so that same can be referred to in case trial proceeds after conclusion of investigation.

Investigating agency shall, however, not be precluded from summoning the petitioner for further investigation. It shall also be at liberty to seek cancellation of bail in case petitioner does not cooperate.”

The aforesaid statement of Nirmala Devi recorded under Section 164 Cr.P.C. had been forwarded to learned Illaqa Magistrate in a sealed cover.

The investigating agency i.e. Union Territory, Chandigarh filed an application before the Illaqa Magistrate for supplying a copy of the statement under Section 164 Cr.P.C. Learned Illaqa Magistrate declined to give a copy of the statement on the ground that the statement was recorded on the directions of the High Court and the statement was kept in a sealed cover as directed by the High Court.

The Union Territory, Chandigarh filed a revision petition wherein it was specifically noticed by the Court that counsel appearing for the respondent has not opposed the arguments of learned counsel for the

public prosecutor, however, still the Revisional Court i.e. Additional Sessions Judge, Chandigarh dismissed the revision petition.

Learned counsel for the petitioner has pointed out that under Rule 16(b) of Rules and Orders of Punjab and Haryana High Court contained in Volume III Chapter 13, the Magistrate who has recorded a statement can order allowing the police to take a copy of the aforesaid statement.

Learned counsel for the petitioner-UT, Chandigarh further submits that for completion of investigation, copy of the statement is necessary.

Keeping in view the aforesaid facts, learned Illaqa Magistrate is requested to break open the seal and supply a copy of the statement of Nirmala Devi recorded under Section 164 Cr.P.C. to the prosecution agency. The Illaqa Magistrate would re-seal the envelope after securing the original statement.

With these observations, the petition is disposed of.

19.08.2019

D.Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No