

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

CRM-M-52954-2018(O&M)

Date of decision:-3.2.2020

Kuldeep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.V.S. Punia, Advocate
for the petitioner.

Ms.Harpreet Kaur, AAG, Haryana.

H.S. MADAAN, J.

This is a petition under Section 482 Cr.P.C. for directing the Court of Judicial Magistrate Ist Class, Sonapat to return the original demand draft/manager cheque No.016213 dated 22.11.2010 in the sum of Rs.2 lakhs to the petitioner and for setting aside the order dated 19.4.2018 passed by such Court vide which the application moved by the petitioner for returning of such draft was disposed of saying that it did not lie in that Court and liberty was granted to the petitioner to file application at proper forum.

Briefly stated, facts of the case are that petitioner Kuldeep, an accused in a criminal case registered vide FIR No.272 dated 17.7.2010 under Sections 406, 420, 467, 468, 471 IPC registered with

Police Station Sonapat had filed a petition for grant of pre arrest bail in this Court therein interim bail was granted to the petitioner; ultimately the interim bail granted was made absolute, subject to the condition that petitioner would prepare a bank draft in the name of respondent/complainant and hand over the same to the Investigating Officer and would pay another sum of Rs.2 lakhs, which would include Rs.1,80,000/- payable along with an additional sum of Rs.20,000/- as interest within a period of one month and the amount would be adjustable towards any final settlement between the parties. This was so directed vide order dated 15.11.2010. The trial Magistrate, however after hearing arguments on the point of charge vide order dated 22.10.2013 discharged the accused.

The respondent/complainant had filed a revision petition against that order to the Court of Sessions. However, Additional Sessions Judge, Sonapat dismissed the revision petition finding that case was of civil nature and no offence was disclosed against petitioner. Therefore, the revision petition was dismissed vide judgment dated 4.9.2017.

Thereafter, the petitioner approached the Court of trial Magistrate praying for return of the original demand draft in question. However, learned trial Magistrate disposed of the application observing that it did not lie there and granted liberty to the petitioner to file application before the proper forum.

Such order left the petitioner aggrieved and he has approached this Court by way of filing the present petition under Section 482 Cr.P.C., notice of which issued and respondent – State put

in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned State counsel at the very outset has stated that since petitioner has been discharged by the trial Magistrate, she has no objection if the draft in question is returned to the petitioner, as prayed for.

The trial Magistrate clearly fell in error by not acceding to such request of the petitioner. Since petitioner/accused has been discharged in the criminal case allowing draft produced by him to remain on the judicial file shall not serve any purpose, the amount would get wasted.

Therefore, the order passed by learned Judicial Magistrate Ist Class, Sonapat is set aside by allowing the present petition and he/she is directed to return the demand draft/manager's cheque to the petitioner as per rules against valid receipt.

The petition stands allowed accordingly.

3.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No