

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

117

CRM-M-3781-2021 (O&M)  
Date of Decision: 13.09.2021

Mahender Singh Chawla

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present : Mr. Gaurav Tyagi, Advocate,  
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

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**AMOL RATTAN SINGH, J. (ORAL)**

Case heard via video conferencing.

On 29.01.2021, the following order had been passed by this  
court:-

“This petition has been filed seeking quashing/setting aside of order dated 19.12.2020 passed by respondent no.2, allegedly in violation of the directions given by this court vide its order dated 24.11.2020 (copy Annexure P-7), with a further prayer made that respondents no.1 to 3 be directed to take necessary legal action against the ‘private respondents’, for procuring and misusing public documents/record for personal benefit while “using official capacity”, and further, a direction be issued to the official respondents to submit a status report with regard to proceedings and action taken, if any, against the ‘private respondents’ in pursuance to the complaint submitted by the petitioner.

Learned counsel for the petitioner would first place on record any communication made by him seeking information that the documents as have been annexed as Annexure P-1 (colly), were obtained by respondent no.4 or respondent no.5, from the State Information Commissioner or any other authority, by way of any

application having been filed under the provisions of the RTI Act, 2005 and if not, whether the said documents could have been obtained by respondent no.4 or respondent no.5 without resorting to any application under the said Act of 2005.

The above order is being considered necessary to be passed in view of the fact that though learned counsel is admitting, upon query of this court, that the said documents are public documents, he still submits that they could not have been obtained by respondent no.4; and even if obtained, could not have been used by her in her petition filed before this court (CRM-M-7668 of 2019), by which the said respondent had sought a direction from this court to the official respondents to take action against the petitioner herein (respondent no.5 in that petition) on the ground that he was extorting and blackmailing her, she being the Sarpanch of Gram Panchayat, Sanauli Khurd, District Panipat; with a further direction sought in that petition that the petitioner herein be restrained from causing interference in the discharge of public function by the present respondent no.4, (her allegation being that he has been filing frivolous and false complaints against her).

*Prima facie* at least to this court, it just seems that the petitioner and respondent no.4, both, are trying to vent their personal grievance against each other by filing one petition after the other before this court wholly on frivolous grounds, whereas in case they are aggrieved of any action of one against other, by way of any defamation etc., the proper remedy if at all their grievances are genuine, would be by way of filing any criminal complaint under the relevant provisions of the Indian Penal Code.

It is of course to be noticed that the said petition, i.e. CRM-M-7668 of 2019 had been disposed of by this court on 13.02.2020, with a direction to the SHO, Police Station Sanauli, Panipat, to go into the representation and to pass a speaking order thereon.

The petitioner herein is also stated to have filed a petition, CRM-M-38561 of 2020, seeking a direction to the official respondents to take legal action against the private respondents in that petition (including respondent no.4 and 5 herein) in respect of the commission of offences punishable under Sections 120-B, 379 and 409 of the IPC, or any relevant provision of law.

That petition was again disposed of vide an order dated 24.11.2020, with a direction to the Superintendent of Police, Panipat, to consider the representation of the

petitioner and after hearing all concerned person, to take action as is warranted as per law, within a specified period of time.

In fact, the impugned order passed by the SP, Panipat, is in response to that direction of this court.

Hence, to repeat, in the opinion of this court, the petitioner and respondents no.4 and 5 are actually misusing the provision of Section 482 of the Cr.P.C. to try and get directions (one against the other) from this court, whereas the proper remedy in respect of any genuine grievance of defamation etc. would be by filing an appropriate criminal complaint.

However, since the allegation in this case is also theft of public documents by respondents no.4 and 5 herein, to determine at the first instance as to whether such documents, even if in the possession of respondents no.4 and 5, could be stated to be in illegal possession, the aforesaid direction is given to the petitioner to place on record any application filed by him under the Act of 2005, to determine the source of the documents with respondents no.4 and 5.

In order to save time, without issuing notice of motion, the learned State counsel would also take instructions as to whether the documents as have been annexed as Annexure P-1 (colly) are in any way such documents which respondents no.4 and 5 would be prohibited from possessing, other than by way of seeking possession of those documents under the RTI Act, 2005 etc.

Adjourned to 01.04.2021.”

Thereafter on 01.04.2021, the following order had been passed by this court:-

“Case heard via video conferencing.

### **CRM-10124-2021**

Though, pursuant to the order dated 29.01.2021, this application is seen to have been filed to place on record certain documents, learned counsel for the applicant/petitioner has sought an adjournment through the coordinator of the video conference. This court had already expressed its view, at least *prima facie*, in the order dated 29.01.2021, that the petitioner as also respondents no.4 and 5 would seem to be misusing the provisions of Section 482 of the Cr.P.C.; but yet, since

an allegation was also made of theft of public documents, the learned State counsel had been directed to take instructions as to whether the documents (Annexure P-1 collectively), were those which respondents no.4 and 5 would be prohibited from possessing, other than by way of seeking such possession by filing an application under the provisions of the RTI Act, 2005.

Pursuant thereto, even though no notice of motion had been issued, the learned State counsel had orally been asked to take instructions to the aforesaid effect. Yet, an affidavit of the DSP, Bapoli, dated 31.03.2021, is present on the case file. However, learned counsel for the applicant/petitioner having sought an adjournment through the coordinator of the video conference, adjourned to 25.05.2021.

The affidavit would be referred to by the learned State counsel on the next date of hearing, though it is not being ordered to be taken on record with notice of motion not having been issued in the petition, as already said.”

Today, learned State counsel points specifically to paragraph 4 of the reply dated 31.03.2021, wherein certain provisions of the Public Records Act, 1993, have been reproduced, with Section 7(2) stipulating to the effect that the Record Officer (as obviously as defined in that Act), would submit a report in writing to the Director General (again in terms of that Act), or to the head of the Archives, without any delay, on any information about any unauthorized removal, destruction, defacement or alteration of any public record under his charge, and about the action initiated by him; and would thereafter take action as he may deem necessary, subject to any direction issued by the Director General or the head of the Archives.

For that purpose, as per sub-section (3) of Section 7, the Record Officer is also empowered to seek assistance from any government officer

or from any other person for the purpose of recovery or restoration of public records.

That being so, with the State already having filed a reply, notice of motion is deemed to have been issued to the said respondent, with the aforesaid reply of the DSP ordered to be taken on record .

This petition is disposed of with liberty to the petitioner to approach the concerned authority under the provisions of the Public Records Act, 1993, in respect of any grievance he has qua any alleged illegal removal etc. of any public documents, with that authority to go into the grievance and to take a decision there upon, as per law.

(AMOL RATTAN SINGH)  
JUDGE

13.09.2021  
adhikari

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No