

In virtual Court

CRM-M-6138-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6138-2021 (O&M)
Date of decision: 27.04.2021

Prashant Sethi

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sachin Mittal, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 27.11.2019 passed by the trial Court, vide which, while deciding an application under Section 156 (3) Cr.P.C. filed by the complainant and directing to register an FIR against the petitioner and to investigate the same, a condition was imposed and SHO was directed to seize passport of the petitioner-accused during the investigation.

Learned counsel for the petitioner submits that as per allegations in the complaint, the complainant has given certain gold articles to the petitioner, who, in lieu, had issued 12 post-dated cheques for Rs.25.00 lacs each (total Rs.3.00 crores) to the complainant and since the cheques were dishonoured, the complainant has been filed, on which, the trial Court directed to register the FIR

against the petitioner. It is further submitted that family of the petitioner is settled in USA and he may have to travel to USA after seeking prior permission from the trial Court and seizure of the passport during the investigation is not justified, as it is a dispute regarding sale of the jewelery articles. It is also submitted that primarily, it is a civil dispute and the complainant has a remedy of filing a complaint under the Negotiable Instruments Act for dishonouring of the cheques or to file a suit for recovery and the investigation is going on.

Learned State counsel, on the basis of reply by way of affidavit of Assistant Commissioner of Police, Udyog, Gurugram, has submitted that the Memorandum of Understanding was executed between the parties in presence of Mrs. Perna Sethi and Mr. Abhimanyu Jain. It is further submitted that the petitioner is planning to shift to USA along with his family members and therefore, the trial Court directed seizure of the passport and the same was taken in possession by the police on 07.12.2019 by ASI Gyanender during the course of investigation. It is also submitted that during the investigation, Section 420, 467, 468, 471 IPC were deleted and Section 406 IPC was added.

After hearing learned counsel for the parties and considering the submissions made by them, I find that unilateral direction given by the trial Court for seizure of passport at the time of giving directions to the police to register an FIR, is not sustainable. Accordingly, this part of the order is set aside.

The trial Court is directed to release passport of the petitioner upon furnishing undertakings/surety bond of two persons, who will furnish bonds to the tune of Rs.10.00 lacs each, that the petitioner will not leave India without

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seeking prior permission from the Court and in the eventuality of any default of such condition, aforesaid two persons/sureties shall be responsible. The petitioner will also furnish a surety of Rs.10.00 lacs before the trial Court to this effect that he will not leave India without prior permission of the Court.

Disposed of.

**[ARVIND SINGH SANGWAN]
JUDGE**

27.04.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No