

Koshlinder Sharma vs. State of Haryana

CRM-M-10977-2021

Braham Datt vs. State of Haryana

Present: Mr. Sandeep Sharma, Advocate
for the petitioners.

Mr. Anmol Malik, DAG, Haryana.

Mr. Kehsav Pratap Singh, Advocate
for the complainant in CRM-M-6897-2021.

Case heard *via* video conferencing.

These two petitions have been listed together ever since notice of motion was ordered to be issued in CRM-M-10997-2021, by which the petitioner therein seeks quashing of the FIR in question, the other petition being one by which his co-accused, i.e. Koshlinder Sharma, seeks to be admitted to anticipatory bail, notice of motion in that petition having been issued on 15.02.2021, with the petitioner directed to join investigation and with him to be admitted to interim bail, if he was sought to be arrested.

He having joined investigation thereafter, detailed orders were passed on different dates, with a not so detailed order dated 09.11.2021 having been passed, which reads as follows:-

“Pursuant to the order dated 13.09.2021, the respondent-State has filed a short affidavit dated 18.10.2021, of the Deputy Commissioner of Police, NIT, Faridabad, which is ordered to be taken on record.

As per the said affidavit, though the petitioner had joined investigation in February, 2021, his signatures could not be obtained and therefore his custodial interrogation is required to obtain his signatures for comparison with the signatures on the cheque in question, as also to know the “real facts of the case”.

Learned counsel for the petitioner submits that the petitioner is willing to give his signatures for comparison.

It is to be observed by this Court that it is strange that

even a person of the rank of a DCP is stating that the petitioners' signatures are required for comparison with the signatures on the cheque in question because the correct method of comparison would be by obtaining his standard signatures from his bank, so as to ensure that the correct signatures are compared and not any signatures that the petitioner now decides to give. Yet, the petitioner is directed to join investigation again on 17.11.2021, with him to provide the bank account that he has been using for the last five years, to enable the investigating officer to obtain his standard signatures from that bank to compare them with the signatures on the cheques in question, and with the petitioner to also give a sample of his signatures as required by the investigating officer.

If the petitioner does not give the bank account details of the bank with which he is a customer for the last five years, the interim order passed in his favour would stand vacated on the next date of hearing itself.

The DCP shall file another affidavit stating as to whether the petitioners' custodial interrogation is required thereafter or not.

Adjourned to 06.12.2021.

Interim order to continue till that date only and specifically.

A photocopy of this order be placed on the file of the other connected case too."

Pursuant thereto an affidavit dated 30.11.2021 was filed by the DCP, NIT, Faridabad, in which it is stated that with the petitioner having provided the details of his savings bank account and information also having been obtained from the bank in question, his custodial interrogation is not required so far.

However, learned counsel for the complainant submits that with the averments made in paragraph 2 of the petition having been found to be false even by the investigating agency and therefore the petitioner having stated falsely before this court, the petition deserves to be dismissed.

Whereas I would otherwise agree with learned counsel for the complainant, however, simply keeping in view the ratio of the judgment of the Supreme Court in M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649, to the effect that once the investigating agency itself does not require the

custodial interrogation of an accused, even a constitutional court would not directed his arrest, I would see no option but to allow the petition, with the order admitting the petitioner to interim bail therefore made absolute; subject naturally to any application being filed by the investigating agency for cancellation thereof on any valid ground, which of course would be then considered on its own merits.

As regards the petition by which the petitioner therein seeks that the FIR itself be quashed, learned State counsel seeks further time to file a detailed reply to it.

Adjourned to 22.02.2022.

If a detailed reply is not filed, the Commissioner of Police, Faridabad, would be summoned to court.

It is made absolutely made clear that there is no interim order operating staying any proceedings in the FIR.

(A photocopy of this order be placed on the file of the connected case).

January 13, 2022

dharamvir//

**(AMOL RATTAN SINGH)
JUDGE**