

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

118

CRM-M-6259-2022

Date of Decision :14.02.2022

Sanjay Saxena

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ajay Saini, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed for quashing of order dated 01.12.2021 passed by the Additional Sessions Judge, Gurugram, by which the application filed by the petitioner under Section 482 of the Cr.P.C has been dismissed.

Learned counsel for the petitioner argues that the impugned order has been passed by the Court below rejecting the claim of the petitioner on the ground that prayer of the petitioner is not supported by the relevant documents/information, hence, cannot be accepted. Learned counsel for the petitioner submits that the petitioner is already confined in Tihar Jail, New Delhi and when he was produced before the Court at Gurugram, in respect of complaint, which has been filed against him by respondent No.3 under Section 138 of the Negotiable Instruments Act, he

said complaint, coupled with the fact that petitioner still remains in custody in Tihar Jail, Delhi, it is deemed that petitioner had undergone the period of conviction as ordered by the Court at Gurugram.

On being asked to point the said facts in the order passed by the trial Court at Gurugram that it was mentioned that petitioner is convicted and in the Custody in Tihar Jail, New Delhi and the period spent by the petitioner in Tihar Jail, New Delhi will count towards sentence awarded to the petitioner, learned counsel for the petitioner concedes the fact that in the order of the trial Court convicting the petitioner under Section 138 of the Negotiable Instruments Act, in respect of the complaint filed by respondent No.3, there was no mention of the fact that the petitioner was already lodged in Tihar Jail, New Delhi at the time of conviction and that the conviction being ordered by the competent Court of law at Gurugram will take effect immediately and the custody period of the petitioner spent in Tihar Jail, will count towards sentence awarded.

Faced with this situation, learned counsel for the petitioner prays that the petitioner be allowed to withdraw the present petition with liberty to approach the trial Court/Sessions Court once again to make out a case by relying upon all the relevant facts/documents that the petitioner had already undergone the sentence awarded to him in respect of the complaint filed by respondent No.3 under Section 138 of the Negotiable Instruments Act, while in custody in Tihar Jail, New Delhi.

Ordered accordingly.

February 14, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No