

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

101

CRM-M No. 28947 of 2017 and other connected matters

Date of Decision: 29.04.2022

Suman

.....Petitioner(s)

vs.

State of Haryana and others

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present

Mr. Sahil Gupta, Advocate (in CRM-M-52887-2018)
Mr. Jitender Nara, Advocate (in CRM-M-45761-2018)
Mr. R. S. Kundu, Advocate
(in CRM-M-54526 and 45861-2018)

Mr. Krishan Kanha, Advocate,
for Mr. N.S. Lucky, Advocate
(in CRM-M-53510-2018)

Mr. M. S. Jandiala, Advocate
(in CRM-M-8538 and 8541-2020)

Mr. Vivek Suri, Advocate, Advocate,
for the petitioner (s) (in CRM-M-29789-2018).

Mr. Ramesh Kumar Bamal, Advocate,
(in CRM-M-9439, 50651-2018,
3707, 5072 and 9441 of 2020 and CRR-686-2020)

Mr. Ajaivir Singh, Advocate,
for High Court -respondent No.6
(in CRM-M-28947-2017)

Mr. C.S. Bakshi, Advocate, for Chandigarh Administration
with DSP Charanjit Singh, Central SDPO, Chandigarh,
for Chandigarh Administration.

Mr. Deepak Sabharwal, Additional Advocate General, Haryana.

Mr. Rupinder Khosla, Senior Advocate with
Mr. Kunal Mulwani, Advocate, for the applicant
(in CRM-M-15952 and 15953-2019).

With the consent of counsels for the parties, hearing of CRR-686-2020, CRM-M-8538, 8541 & 9441-2020, which are listed for 27.05.2022, is pre-poned to today itself.

The present order shall dispose of 19 petitions i.e. CRM-M No. 28947 of 2017, CRM-M No. 9439 of 2018, CRM-M No.16106 of 2018, CRM-M No. 35204 of 2018, CRM-M No. 50651 of 2018, CRM-M No. 45761 of 2018, CRM-M No.45861 of 2018 and CRM-M No. 21903 of 2018, CRM-M No. 54526 of 2018, CRM-M No. 2606 of 2019, CRM-M No. 29789 of 2018, CRM-M No. 52887 of 2018; CRM-M No.53510 of 2018, CRM-M Nos. 8538, 8541, 9441, 3707 & 5072-2020 and CRR-686-2020, as all the petitions arise out of common FIR No.194 dated 19.09.2017 under Sections 8, 9, 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988 and Sections 201, 409, 420, 120-B IPC, Police Station Sector 3, U.T.Chandigarh. Reference is being made to ***CRM-M No. 28947 of 2017, Suman vs. State of Haryana and others.***

Initially the matter had come to this Court by way of CRM-M-28947-2017 wherein certain directions had been sought including registering of the case on the complaint dated 19.07.2017 which pertained to leakage of the question paper of preliminary examination for recruitment of Subordinate Judicial Services, Haryana, (HCS-2017).

The FIR was registered accordingly on the directions passed on 15.09.2017 by this Court.

On 18.09.2017, a Special Investigating Team was constituted

keeping in view the list received from the Director General of Police, Chandigarh, in view of the sensitivity of the issue involved.

The matter was transferred by the Apex Court vide order passed in SMTP (Crl.) No.1 of 2017 titled *Suman Vs. The State of Haryana & others* to itself on 05.10.2017, which was noticed by this Court on 10.10.2017.

Thereafter, the matter was received back as per the orders dated 08.12.2017 passed by the Apex Court and which was to be dealt with by this Court as per orders passed in TC (Criminal) No.2 of 2017 titled *Suman Vs. The State of Haryana & others*. The Apex Court observed that this High Court would be best suited to monitor the investigation which was being carried out by the SIT.

In pursuance of the said proceedings, Dr. B.K. Sharma filed CRM-3707 of 2020 challenging order dated 18.12.2019 against dismissal of two applications for supplying of copies of statements of 4 witnesses recorded under Section 164 Cr.P.C. He also filed CRM-5072 of 2020 regarding dismissal of application for supplying of sealed parcels, C.Ds., hard discs. CRM-9441-2020 was filed by him challenging orders dismissing his applications for issuance of appropriate direction to the prosecution/SIT to place on record the CFSL report was received etc. was dismissed. He also filed CRM-50651-2018 for quashing order dated 06.06.2018 whereby, applications under Section 202 Cr.P.C. for supplying DDRs and the statements of MMHC had been declined.

Sunil Kumar @ Titu filed CRM-2606-2019 challenging the

order whereby the Trial Court had issued directions for obtaining his voice sample and also filed CRM-8538-2020 challenging the order regarding dismissal of his application for supply of documents, transcripts and C.D. conversation. He also filed CRM-8541-2020 whereby, the Trial Court did not supply copies of various challans.

Various other accused filed petitions for grant of regular bail as it had been rejected by the Trial Court i.e. CRM-M-9439-2018 (filed by B.K. Sharma), CRM-M-16106-2018 (filed by Sunita), CRM-M-29789 of 2018 (filed by Sushila), CRM-M-35204-2018 (filed by Sunil Kumar), CRM-M-45761-2018 (filed by Kuldeep), CRM-M-45861-2018 (filed by Ayushi), CRM-M-52887-2018 (filed by Sushil Badhu), CRM-M-53510-2018 (filed by Tejinder Bishnoi) and CRM-M-54526-2018 (filed by Subhash Chander). This Court vide orders dated 12.10.2018, 26.10.2018, 11.12.2018 and 18.01.2019 passed various orders granting interim bail to the said accused.

CRM-21903-2018 is a petition filed by the U.T. Administration whereby it seeks quashing of the order dated 10.04.2018 passed by the Addl. Sessions Judge, Chandigarh regarding preservation of call details record of SIT etc.

On 10.01.2020, directions were issued to frame charges in accordance with law, within 3 weeks and decide all applications as it was noticed that numerous applications were being filed by the accused as charge was not being framed.

Accordingly, the Trial Court framed the charge on 31.01.2020.

Mr. B.K. Sharma, who is an employee of this Court filed CRR-686-2020 against the said order of framing of charge.

It has now been brought to our notice that at the instance of Ayushi and another and Balwinder Kumar Sharma, the Apex Court had in Transfer Petition Nos.66 and 136 of 2020, transferred the trial titled as ***State vs. Sunita*** to Delhi High Court and the Hon'ble Chief Justice of the Delhi High Court had been asked to nominate a Court for that purpose. The order dated 05.02.2021 passed by the Apex Court reads as under:

“The Court is convened through Video Conferencing.

Heard learned Senior Counsel appearing for the parties.

During the course of hearing, Mr.Nidhesh Gupta, learned Senior counsel appearing for the High Court of Punjab & Haryana and Mr.A.N.S.Nadkarni, learned Senior Counsel appearing for the Union Territory of Chandigarh, have no objection if the matter is transferred from Chandigarh to Delhi.

Taking into consideration the statements made by the learned Senior counsel appearing for the parties, without going into the merits of the case, we thought it appropriate, in the interest of all the parties, to transfer the case bearing C.C. No.1/2018 titled “State Vs. Sunita & Ors” pending before the Learned Additional Sessions Judge, Chandigarh to Delhi.

Accordingly, we request Hon'ble the Chief Justice of Delhi High Court to nominate an appropriate Court for the purpose.

The Transfer Petitions are allowed in the afore-stated terms.

Let the records be transferred immediately.

All pending applications including application for impleadment also stand disposed of.”

One of the accused, Sunil Kumar @ Titu then challenged the directions passed by this Court on 10.01.2020. Accordingly, on 22.02.2021, the Apex Court passed the following order:

“Heard learned counsel for the parties.

We dispose of this petition with liberty to the petitioner to agitate all aspects/contentions, as may be permissible in law, before the High Court in the pending proceedings. The same be decided on its own merits and in accordance with law.

It was brought to our notice that the case before the Additional Sessions Judge at Chandigarh now stands transferred to Court in Delhi pursuant to order passed by this Court on 5.2.2021. In that case, it will be open to the petitioner to withdraw the application filed by him before the High Court of Punjab & Haryana and take recourse to appropriate remedy, as may be permissible in law.

All contentions available to the parties are left open.

Pending applications, if any, stand disposed of.”

It is not disputed that charge already stands framed on 31.01.2020 in pursuance of the investigation having been completed and in view of the order dated 10.01.2020 passed by this Court. Resultantly, now the trial is pending before the Competent Court at Delhi.

Mr. Bakshi, Advocate for U.T. Administration has also brought to our notice that one of the accused Tejinder Bishnoi in CRL.M.C.3242/2021 and CRL.M.A.19946/2021 has also challenged the order passed by the Trial Court dismissing his application under Section

207 Cr.P.C. wherein certain statements had not been supplied to him and also the order framing the charge, which now are stated to be pending for 23.05.2022 before the High Court of Delhi.

Mr. Bakshi, has made a statement that his client would not press the petition in view of the orders passed by the Apex Court on 22.02.2021 and reserves the liberty to challenge the same before the Delhi High Court.

Keeping in view the above background and in view of the fact that the matter stands transferred to the Court at Delhi at the instance of one of the accused namely Sunil Kumar @ Titu and since the Apex Court has already given him liberty to withdraw his application before this Court and take remedies as permissible in law vide order dated 22.02.2021, which has already been reproduced above, we are of the considered opinion that it would not be appropriate for this Court to further proceed in the matter regarding the other accused/petitioners. Even otherwise, since the FIR has been lodged, investigation is complete and charge has been framed. Consequently, the purpose of monitoring the proceedings has now been rendered infructuous. Similarly, as noticed above, one of the accused has also approached the High Court of Delhi for his legal remedies.

In such circumstances, we dispose of all the petitions bearing CRM-9439, 16106, 29789, 35204, 45761, 45861, 52887, 53510 & 54526-2018 as having been rendered infructuous.

Liberty is granted to the applicants to seek confirmation of

the bail before the Courts of Competent Jurisdiction at Delhi as interim orders have been operating in favour of the accused for a period of over 3 years. The same are extended for a period of 2 months to enable the petitioners to seek their redressal before the Courts of Competent Jurisdiction at Delhi.

All pending applications for impleadment and directions also stand disposed of. All other cases are also disposed of as having been rendered infructuous.

Photocopy of this order be placed on the record of each connected case.

(G.S.SANDHAWALIA)
JUDGE

(M.S. RAMACHANDRA RAO)
JUDGE

(ARUN PALLI)
JUDGE

(LISA GILL)
JUDGE

(DEEPAK SIBAL)
JUDGE

April 29, 2022
sailesh/shivani

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No