

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 29711 of 2022
Date of Decision: 12.7.2022**

Rajender

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Ms. Geeta Singhwal, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner is an accused in FIR bearing No. 403 of 22.12.2017, registered at Police Station Sadar Narnaul, District Mahendergarh, wherein offences constituted under Sections 109, 186, 353, 506 IPC, are embodied.

2. After completion of investigations into the petition FIR, the investigating officer concerned, instituted a report under Section 173 Cr.P.C., before the learned Court concerned.

3. Though, after the petition FIR became lodged, at the police station concerned, on 22.12.2017, yet the petitioner, belatedly therefrom, inasmuch as on 23.6.2022, hence instituted an anticipatory bail application, before the learned Sessions Judge, Narnaul. However, the relief on the above application became declined to the present petitioner.

4. Since the above order for want of any valid challenge being cast thereto, before the jurisdictionally empowered Court, and, obviously

When the above order remained unannulled, therefore, it acquires the

completest conclusivity, and, binding effect, and, necessarily leverage is reserved to the police officer to cause the arrest of the petitioner.

5. Be that as it may, irrespective of the above, yet the learned Magistrate concerned, has proceeded to secure the personal appearance, before him, of the present petitioner, through ordering for service of warrants of arrest, upon him, but it appears that the present petitioner, did not ensure, the causings of service, upon him of the warrants of arrest, nor made any application before the learned Magistrate concerned for the warrants of arrest, being recalled, nor he could make the above endeavour as in the face of the apt conclusivity becoming fastened to the disaffirmative order, made by the learned Sessions Judge concerned, upon the petitioner's application cast under Section 438 Cr.P.C., the learned Magistrate concerned, was left with no jurisdiction, to ask for furnishing of personal, and, surety bonds, before him, rather by the present petitioner. It appears that the non making of the service of NBWs, upon the petitioner, resulted in the learned Magistrate concerned, drawing an order on 7.2.2022, to which Anneuxre P-2 is assigned, with a direction to cause service, upon the petitioner through a proclamation notice, and, the serving constable, became directed to appear before the learned Magistrate concerned, on 13.7.2022, and, the accused became directed to ensure, that he, within 30 days therefrom, inasmuch as on 17.8.2022, make his personal appearance before the learned Magistrate concerned.

6. Even if the petitioner had failed to cast a challenge to the disaffirmative order, made by the learned Sessions Judge, upon his application under Section 438 Cr.P.C., but given the fact that the offences constituted in the FIR appertain, rather only, to through an intimidatory cell

phone conversation with the public servant concerned, theirs being committed, therefore, treating the instant petition to be a revision petition, against the disaffirmative order made by the learned Sessions concerned, upon the petitioner's application, cast under Section 438 Cr.P.C., this Court makes an interference therewith.

7. In sequel, Annexure P-4 is quashed, and, set aside. The petitioner-accused is directed to forthwith make his appearance before the learned Magistrate concerned. Upon the petitioner making his appearance before the learned Magistrate concerned, the latter shall ensure that he furnishes the requisite personal, and, surety bonds, to his satisfaction, before him.

8. The upshot of the above discussion is that since the learned Magistrate concerned, was led to issue non-bailable warrants, upon the petitioner only because of the factum that a disaffirmative order, being made by the learned Sessions Judge concerned, upon the petitioner's application, thereupon, and, when the above order has been quashed with a direction to the petitioner to make his appearance before the learned Magistrate concerned, therefore, the order drawn on 7.2.2022, becomes purposeless, and, is also concomitantly quashed, and, set aside.

9. The petition is disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

July 12, 2022
Gurpreet

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