

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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CRM-M-30956-2022
Date of Decision: 19.07.2022

GURPREET SINGH

....PETITIONER

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Jatinderpal Singh, Advocate for the petitioner.

Mr. P.P.Chahar, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. In FIR No. 57 dated 08.03.2020, registered at Police Station Kalanwali, District Sirsa, an offence constituted under Section 22 (c) of the NDPS Act, is embodied.

2. In the petition FIR, the principal offender, who became nabbed at the crime site by the investigating officer concerned, and, from whose conscious, and, exclusive possession, five boxes, in which 2500 intoxicant tablets comprising *Tramadol Hydrachloride*, became recovered, rather during the course of his custodial interrogation, revealed, to the investigating officer, that he had received the above seizure from co-accused Krishan Singh, and/or, that the latter was the supplier of the seized psychotropic substance.

3. At the crime site, the investigating officer proceeded, to, undertake the procedures appertaining to the sampling, and, seizure of the case property. Moreover, it is also communicated in the apposite FIR, that

investigating officer concerned, through Annexure P-2 drawn on 09.03.2020, produced the above seized psychotropic substance, before the learned Court concerned, for enabling the latter to make an inventory qua thereof, therein the investigating officer concerned, assigned to the seizure batch No. TVD-19594, which however was completely distinct from the one as became recorded in the FIR.

4. The learned Magistrate concerned, before whom the case property became presented for the making of the apposite inventory, though proceeded to, through an order made thereons, on 09.03.2020, recite therein batch No.TVD-19594 to the seizure, and, hence made it *in tandem* with Annexure P-2. However, the SHO concerned, proceeded to, after an year elapsing since the making of an order on 09.03.2020, by the learned Magistrate concerned, institute Annexure P-4, before the learned Magistrate concerned. In Annexure P-4, he echoed that the batch number of the recovered psychotropic substance, at the time of its seizure, becoming mentioned, as, No.TVD-19638, but yet in the order, as made by the learned Judicial Magistrate, on 09.03.2020, upon the SHO's application, as, carried in Annexure P-2, the apposite to the seizure concerned, hence batch number becoming incorrectly described, to be carrying No.TVD-19594, therefore, correction in respect thereof was asked to be made by the learned Magistrate concerned. The learned Magistrate concerned, proceeded to, through an order made on 01.04.2021 hence make the correction, and, also reflected the same, in the initial order, made on 09.03.2020.

5. The learned Magistrate concerned, could make the correction only if in the earlier order recorded by him, on 09.03.2020, there was a *bonafide* typographical mistake or an arithmetical mistake, and, as became

aroused from the description, as made in Annexure P-2 rather being not in tandem with the description of the batch number, as echoed in Annexure P-2. However, when in the order recorded, on 09.03.2020, the description of the batch number was in complete *tandem*, with descriptions thereof, as made in Annexure P-2, thereupon the empowerment bestowed, under Section 362 of Cr.P.C., upon the learned Magistrate concerned, and, appertaining to only review of arithmetical or typographical errors, hence being amenable to be made, in the apposite order, rather was not amenable for becoming exercised by the learned Magistrate concerned. Contrarily, the application embodied in Annexure P-4, as moved before him, by the SHO of the police station concerned, was amenable for being dismissed, it being outside the contours of Section 362 of the Cr.P.C. However, the learned Magistrate concerned, after allowing Annexure P-4 made untenable corrections, and, rectifications, importantly when the description of the batch numbers of the apposite seizure, as made in Annexure P-2, became also narrated in the initial order, as, made by the learned Magistrate, on 09.03.2020. Reiteratedly in consequence, and, if so, the apposite descriptions, as carried in the order, of 09.03.2020, were not typographical errors, but were *in tandem* with Annexure P-2, and, were reiteratedly unreviewable, and, were amenable for correction only by the jurisdictionally empowered Court.

6. Be that as it may, even if this Court is constrained to quash Annexure P-5, but yet the apposite corrections can yet be asked for, through an application being moved by the respondent, rather before the jurisdictionally empowered Court. The above endeavour may ultimately undo any mishap, as, may become encumbered, upon, the prosecution case,

especially when may be, other than *de-hors* the above mis-descriptions, there are *inter-se* matchings in respect of the numbers of the seals, as made on the cloth parcels, drawn at the crime site, and, also there are *inter-se* matchings in respect of the English alphabets made thereons, besides with all the corresponding recitals carried in the records in respect thereof, as, maintained in the police station concerned, whereupon, the makings of the apposite correction, may *prima-facie* assume the underlining(s) of if it may be, being a sheer typographical error. Significantly also when it is stated, at the bar, by the learned State counsel that, the sample parcels, as become despatched onwards to the FSL concerned, through the apposite road certificate, rather also thereons made batch number, is in, concurrence with the descriptions qua therewith, as made in the FIR, and, thereupon also the case property may have hence travelled in an unproven chain upto the Court concerned.

7. The impugned order is set aside, but with liberty to the State of Haryana to seek the appropriate corrections, as earlier endeavoured through Annexure P-4, through a petition becoming preferred before the jurisdictionally empowered Court. The reason for forming the above conclusion, is that, not the State of Haryana, but the accused has through the instant petition asked for the annulment of the impugned order, made on 01.04.2022, whereas, rather the State of Haryana may have chosen to assail it, through its casting, an appropriate modificatory petition before the jurisdictionally empowered Court, given Annexure P-4 being not signed by the learned Public Prosecutor concerned, but being signed only by the SHO concerned.

8. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

19.07.2022

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