

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

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**CRM-M-31875-2022
Decided on : 01.08.2022**

Parveen

. . . Petitioner(s)

Versus

State of Haryana and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

PRESENT: Mr. Sandeep Kumar Yadav, Advocate and
Mr. Vikram Bishnoi, Advocate
for the petitioner(s).

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

Mr. Aditya Sanghi, Advocate
for respondent No.2.

SURESHWAR THAKUR, J. (Oral)

1. The respondent No. 2, had earlier accessed this Court through petition bearing No. CRM-M-12139-2022, but thereon, through an order made on 25.04.2022, this Court had, on the statement of the counsel for the petitioner, hence, asking for leave to withdraw the petition (supra), had granted the asked for leave to him. However, this Court in the above made orders, upon, petition (supra), had yet reserved liberty to the petitioner to approach “this Court”, but at an appropriate stage. The orders (supra) are reproduced hereinafter:-

- “1. *Learned counsel for the petitioner seeks, and, is granted permission to withdraw the present petition.*
2. *Dismissed as withdrawn.*
3. *However, liberty is reserved to the petitioner to approach this Court, but at an appropriate stage.”*

2. It is, but manifestly clear from the order (supra) that liberty as became granted to the petitioner, became restricted to the petitioner to re-access “this Court”, but no liberty become granted to access or approach Courts, other than “this Court”. Therefore, this Court preserved to itself, and, to not other Court, the jurisdiction to make an adjudication, upon, a bail petition, which becomes, instituted before this Court.

3. However, the respondent No.2, through casting bail application bearing No. 237 of 2022, before the learned Additional Sessions Judge, Narnaul, (in short, 'Ld. ADJ'), was able to get an affirmative order thereon.

4. This Court may not have inferred with the order embodied, in Annexure P-4, but deems it fit to make an inference therewith, given this Court, reserving liberty to the petitioner to only access “this Court”, obviously it not reserving any liberty to the petitioner, to access any other otherwise jurisdictionally empowered Court. Nonetheless, the above has happened, and, consequently the otherwise jurisdictionally competent Court, which could have excepting the above rider, hence made a valid order, upon the subsequent bail application of the respondent, rather, has for active *Suggestio Falsi*, and, *Suppressio Veri*, becoming practiced by the counsel, for the petitioner, has been led to make an affirmative order, upon the above bail application, which but for the above stain(s), in the subsequent bail application, became completely jurisdictionally dis-empowered, to make any valid order, upon, the bail application.

5. The learned counsel appearing for respondent No.2, has contended before this Court, that on the application, whereon, the impugned order, has been made, does not contain any blemish of *Suggestio Falsi* or *Suppressio Veri*, and nor also the order, in respect whereof, the

jurisdictionally dis-empowered the Court, rather made an order embodied in Annexure P-4, is amenable to be quashed and set-aside. In making the above submission(s), the learned counsel for the respondent, has referred to an averment existing in paragraph 3, of the bail application No. 237 of 2022, which is extracted hereinafter:-

“3. That petitioner filed an regular bail application in the Hon'ble Punjab and Haryana High Court at Chandigarh and the same was dismissed as withdrawn on dated 25.4.2022 and thereafter, the charge was framed on 28.2.2022 and as such the case is now is fixed for 1.8.2022 for prosecution evidence. So after dismissal of first bail application there is a change in the circumstances as the charge was not framed on 2.2.2022 and now the charge has been framed and on the two dates no prosecution witness has been examined till date.”

6. However, therein, there is a reference to an order, as, made by this Court, and, as becomes carried in Annexure P-2, but yet there is only a part reflection therein, inasmuch as, the application concerned being dismissed as withdrawn. But, there is no further reference therein, as also became embodied in Annexure P-2, *qua* “this Court” rather reserving the said liberty to the petitioner only to approach “this Court”, and, not any other Court. Therefore, it became incumbent upon the learned counsel, for the petitioner, who drafted, and, presented the application concerned, before the Ld. ASJ concerned, to not eschew the above imperative words, and, nor omit to reflect them thereins, which if he had done would have not resulted in the above order being made. Therefore, through the non-incorporation thereins, of the above jurisdictionally incapacitating words, hence resulted in the untenable bestowments of jurisdictional empowerments, in the Ld. ASJ concerned.

7. In consequence the above active *Suggestio Falsi*, and, *Suppressio Veri*, as carried in the petition, whereon an affirmative order was made, does constrain this Court to conclude, that the jurisdiction of the Ld. ASJ, concerned, was inappropriately accessed.

8. There is merit in the petition, and, the same is allowed, and, the impugned order is quashed and set-aside.

9. Learned counsel for the petitioner, who drew the application, is cautioned to be careful in future.

(SURESHWAR THAKUR)
JUDGE

August 01, 2022

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No