

\$~1

NEUTRAL CITATION NO: 2022/DHC/002594



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on :06/07/2022

Judgment pronounced on :08/07/2022

+ **W.P. (CRL.)976/2022, CrI. M.A 8240/22 & CrI.M.A 10543/22**

JAMSHED ADIL KHAN & ANR.

.....Petitioners

Through: Mr. Hrishikesh Barauah and Ms.
Radhika Gupta, Advs.

versus

UNION TERRITORY OF JAMMU
AND KASHMIR AND ANR.

.... Respondents

Through: Ms. Srishti Mishra, Id. proxy
counsel for Ms. Taruna Singh
Bhagel, Adv. for U.T. of Jammu &
Kashmir

CORAM:

HON'BLE MS. JUSTICE POONAM A. BAMBA

POONAM A. BAMBA, J.:

1.0 Vide this writ petition under Article 226 of The Constitution of India r/w Section 482 of Code of Criminal Procedure (**Cr.P.C**), the petitioner has prayed as under:-

“(a) Issue a Writ of Certiorari or any other Writ, Order of direction of like nature **quashing the Summons dated 17.03.2022 bearing No. SDPO/PMP/C-3/2022/1540 and No. SDPO/PMP/C-3/2022/1541 issued by the Office of the Sub-Divisional Police Officer Pampore** and any other consequential notices and/or orders that may be passed qua the Petitioners in **FIR no. 153/2021** of Police Station Pampore u/s 370, 120-B Indian Penal Code and Section 81 of the Juvenile Justice Act ;

(b) Pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and the circumstances of the case.”



2.0 It is submitted by the petitioner that :

- (i) the petitioner no. 1 is an investigative journalist. A report prepared by the petitioner no. 1 regarding giving in adoption the children orphaned during Covid-19 for a price, was broadcast on air on 30.11.2021 followed by the publishing of an article titled '*The Pandemic's ruthless toll – Covid orphans up for sale*' ;
- (ii) on 01.12.2021, the Chairperson, Child Welfare Committee, Pulwama forwarded a written complaint to P.S. Pampore for registration of a formal case in the matter. Based on the said complaint, the aforesaid FIR no. 153/2021 was registered ;
- (iii) on 10.12.2021, the respondent no. 2/office of the Sub-Divisional Police Officer, Pampore issued a summon u/s 91 of CrPC to the News Director, India Today Group directing the News Director to provide the following information:
 - a. Original/Unedited footage of the video
 - b. Complete details of the sting operation team for recording of their statements ;
- (iv) on 13.12.2021, a representative from the office of respondent no. 2 visited the office of TV Today Network at Noida, U.P. to collect the information. The TV Today Network Ltd. handed over a letter to respondent no. 2 in response to the notice u/s 91 of CrPC along with the CD in question ;
- (v) on 11.02.2022, the office of the ACP/Enquiry Officer, Anti Human Traffic Unit, (AHTU) Crime Branch, Delhi police sent a letter/notice to Mr. Rahul Kumar Shaw, CEO, TV & Radio, The India Today Group, requesting for various details

and video footages of sting operation and same was
NEUTRAL CITATION NO: 2022/DHC/002594
responded by India Today Group informing that Delhi
Commission for Protection of Child Rights, Govt, of NCT of
Delhi had taken suo moto cognizance over the report of the
petitioners and directed the Delhi Police to conduct inquiry
and take cognizance of the matter. By way of said letters,
request was also made for providing details of video footage
of their investigation/sting operation ;



- (vi) the above letter of AHTU was replied by TV Today Network Ltd., vide its reply dated 23.02.2022, providing a CD of the complete video footage of the news report and further details as requested by the AHTU, Delhi Police. In that regard, a further reply was given by TV Today Network Ltd., on 24.02.2022 informing that they have also received a notice u/s 91 CrPC from respondent no. 2/Sub-Divisional Police Office, Pampore ;
- (vii) on 17.03.2022 the respondent no. 2/office of Sub-Divisional Police Officer Pampore, Union territory of Jammu & Kashmir issued the impugned summons to the petitioners no. 1 & 3 u/s 160 CrPC directing the petitioners herein to attend the office of Sub-Divisional Police Officer Pampore, within 2 days. Said summon was received on 23.03.2022. The said notice is illegal and needs to be quashed.

2.1 It is submitted that notice under Section 160(1) of the Cr.P.C can only be issued to a person who is situated within the local jurisdiction of

that police station or is within the adjoining police station. Therefore, police station in Jammu and Kashmir could not have issued notice to the petitioners who are residents of Delhi and are outside the jurisdiction of the Respondent no. 2 office.



NEUTRAL CITATION NO: 2022/DHC/002594

3.0 This petition is opposed by Id. counsel for respondents submitting that nothing stops the investigating agency to require the attendance of a person acquainted with the facts and circumstances of the case.

4.0 Let me at the outset refer to the relevant provision of law i.e. Section 160 Code of Criminal Procedure, 1973, which reads as under :-

“160. Police officer’s power to require the attendance of witnesses.—

(1) Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required:

Provided that no male person under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person shall be required to attend at any place other than the place in which such male person or woman resides.

(2) The State Government may, by rules made on this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.”

5.0 From the plain reading of the sub-section (1) of Section 160 Cr.P.C, it is evident that for the purposes of investigation, a police officer can require attendance of a person situated within the limits of his own police station or that of the adjoining police station and not someone who is situated beyond the said territorial limits. A reference with benefit may be made here to the judgment dated 27.07.2010 of a Co-ordinate Bench of this court in a similar case in **Ravinder Singh V. State and Anr. W.P. (Crl.) No. 971/2010**. In that case, while quashing the summons, this court held that:

"Reading of this Section makes it abundantly clear that notice under Section 160 Cr.P.C can be issued by an Investigating Officer or the police person concerned to a person residing within his own jurisdiction and at the most in the adjoining police station surrounding that police station. There may be 10 police stations adjoining that police station...."

*The Section does not need help of dictionaries or other judgments for understanding its meaning when **there is no ambiguity and it is so clearly written either within his own police station or in the adjoining police station**. I, therefore, consider that summons issued to the petitioner under Section 160 Cr.P. C in Delhi. which is not adjoining the police station of Rewari is without jurisdiction and the notice is. therefore. quashed."*

5.1 The above view was reiterated by another bench of this court in **Directorate of Enforcement & Ors. v. State of West Bengal & Ors. [WP(Crl) No. 1768/2021]**, wherein it was observed in para 27 as under:-





"27. By a mere reading of the said provisions, it become apparent that the power of the Police Officer to require the attendance of a witness is circumscribed by the words 'within the limits of his own or any adjoining station'. It is to be noted that if the said power was in the nature of pan-India power, as has been sought to be argued by the respondents, there was no reason for the Legislature to use the terminology quoted above. To the contrary, if the same was the intention of the Legislature, the Legislature would have clearly stated so and bestowed unlimited jurisdiction on the Police Officer by using terminology in the nature of 'anywhere in the country' or even 'anywhere within the State'. The clear departure of the Legislature and the use of the terms 'within the limits of his own or any adjoining station' points towards a legislative intention to limit the jurisdiction in this regard . . . "

6.0 The petitioners no. 1 and 2 have pleaded that they are residents of Delhi and have filed in sealed cover, their affidavits disclosing their addresses along with copy of their respective aadhar cards. Ld. counsel for the petitioners submitted that petitioners' addresses be not revealed on record, as the petitioners apprehend threat to their life on account of having carried out journalistic investigation in other sensitive matters in Jammu and Kashmir. The petitioners have also submitted that even the aforesaid summons were addressed to them at the office of TV Today Network, Noida, Uttar Pradesh.

6.1 Aforesaid sealed envelopes were opened and the affidavits and copies of Aadhar Cards of the petitioners were perused. From the same, I am satisfied that the petitioners no. 1 and 2 are residents of Delhi. Summons u/s 160 Cr.P.C were also addressed to the petitioners at Film City, Sector-16 A, Noida.

7.0. In view of the above facts and circumstances, the petitioners being residents of Delhi and having their office addresses of Noida, U.P, could

not have been summoned under Section 160 Cr.P.C by Sub Divisiona
NEUTRAL CITATION NO: 2022/DHC/002594
Police Officer, Pampore, Union Territory of Jammu and Kashmir. The
summons issued to them were without jurisdiction and are therefore,
quashed. However, this shall not come in the way of the investigating
agency to examine the petitioners as per law at Delhi, if so required. Nor
shall quashing of the impugned summon would have any reflection on
merits of the case.

8.0 In view of the apprehension to their safety expressed by the
petitioners, the petitioners' addresses are not revealed on record. Let
affidavits and copies of Aadhar Cards furnished by the petitioners, be
kept in a sealed cover on record.

9.0. The petition is disposed of, accordingly.

(POONAM A. BAMBA)
JUDGE

JULY 8, 2022/cha

Click here to check corrigendum, if any