

245 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1613-2022 (O&M)
DECIDED ON: 10th FEBRUARY, 2023

NAVNEET KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Vipin Pal Yadav, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

SANDEEP MOUDGIL, J. (ORAL)

CRM-6622-2023

Application is allowed as prayed for.

Rejoinder to the status report dated 13.12.2022 along-with
Annexures P-5 to P-7 is taken on record subject to all just exceptions.

CRM-M-1613-2022

The jurisdiction of this Court under Section 482 Cr.P.C., has been
invoked for conducting fair and impartial investigation by an independent
agency in FIR No. 248, dated 03.11.2021, under Sections 17 of Narcotic Drugs
and Psychotropic Substances Act, 1985 registered at Police Station Nathu Sarai
Chopta, District Sirsa.

Learned counsel for the petitioner has drawn attention of this
Court to the order dated 15.07.2022 passed by a co-ordinate Bench of this

Court wherein following observation has been made.

“ The reply submitted by the respondent authorities is silent as regards the other averments made in the petition including the documents/evidence relied upon by the petitioner.

It has been pointed out by the learned counsel appearing on behalf of the State that the investigation in the case is already complete and a final report stands filed on 04.05.2022 by the investigating agency and that in the event of the petitioner having any apprehensions/objection to the fairness of the investigation, he has the remedy of moving an appropriate application under Section 173 (8) of Cr.P.C.

Under the given scenario, a mere conclusion of investigation cannot be the basis for investigation agency to not respond to the allegations that have been levelled in the petition filed before this Court that has been instituted prior to the filing of the final report. Taking into consideration that specific allegations against the police officials have been levelled and reference has been made in the instant petition to overwhelming evidence to raise suspicion regarding the recovery of the contraband as well as the participation of the petitioner in the commission of an offence, I deem it appropriate to direct the Inspector General of Police, Hisar Range to call the petitioner/ their representative and examine the averments/allegations that have been raised in the instant petition along with the material sought to be produced by the counsel for the petitioner and to furnish a status report upon consideration thereof before the next date of hearing.”

In compliance of the afore-said direction, a status report was filed on 08.09.2022, copy thereof was duly supplied to the counsel for the petitioner.

Thereafter, another status report dated 13.12.2022 was filed by way of an

affidavit of Mr. Rakesh Kumar Arya, IPS, Inspector General of Police, Hisar Range, Hisar.

Having perused the status report and the reference made by the learned counsel for the petitioner to the order dated 15.07.2022 passed by a coordinate Bench of this Court as recorded hereinabove, this Court is of the considered view that on the date when the afore-said direction was passed, charges stood already framed. The said fact was not in the knowledge of the Court, in fact by misleading the Court the afore-said order was obtained by the petitioner, which is of no consequence.

While exercising powers under Section 482 High Court cannot interfere with the manner of investigation of a case or direct the investigating agency to investigate from a particular angle or to arrest the accused: The same was observed by the Apex Court in “**M.C. Abraham and Another vs State of Maharashtra and Others**” (2003) 2 SCC 649, wherein it has further gone to the extent of saying that investigating agency is the master of investigation and is at liberty to proceed in its desired direction being free from any interference.

The Apex Court in the case of “**Sakiri Vasu vs State of Uttar Pradesh and others**” (2008) 2 SCC 409; has held as under:-

“If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154 (3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156 (3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?”

Thus a sequel to the above it can well be crystallized that when an aggrieved person approaches the court in a petition under Section 482 Cr.P.C., then the court is possessed with enormous powers to do justice or remove injustice. The Court's vast powers are meant to prevent any abuse of the process or to secure the ends of justice. These powers must be exercised for the advancement of justice. Ends of justice are always higher than the ends of mere law and for accomplishing that noble goal the courts have rightly been invested with adequate powers. While saying so at the same time it has to be kept in mind that though the powers possessed by the High Court are extremely wide but the very plentitude of the power requires the court to function with greater caution and circumspection in the exercise of those powers. In other words, the power under Section 482 Cr.P.C., is to be exercised, *ex debito justitiae*, ie to do real and substantial justice.

Further the Apex Court in **"P. Chidambaram v Directorate of Enforcement" 2019 (4) R.C.R. (Criminal) 875** observed the following:

*"63. Investigation into crimes is the prerogative of the police and excepting in rare cases, the judiciary should keep out all the areas of investigation. In **"State of Bihar and another v. P.P. Sharma, IAS" and another 1992 Supp. (1) 222**, it was held that "The investigating officer is an arm of the law and plays a pivotal role in the dispensation of criminal justice and maintenance of law and order.Enough power is therefore given to the police officer in the area of investigating process and granting them the court latitude to exercise its discretionary power to make a successful investigation...". In **"Dukhishyam Benupani, Asstt. Director, Enforcement Directorate (FERA) v. Arun Kumar Bajoria" (1998) 1 SCC 52**, this Court held that ".....it is not the function of the court to monitor investigation processes so long as such investigation does not transgress any*

provision of law. It must be left to the investigating agency to decide the venue, the timings and the questions and the manner of putting such questions to persons involved in such offences. A blanket order fully insulating a person from arrest would make his interrogation a mere ritual.”

64. *As held by the Supreme Court in a catena of judgments that there is a well-defined and demarcated function in the field of investigation and its subsequent adjudication. It is not the function of the court to monitor the investigation process so long as the investigation does not violate any provision of law. It must be left to the discretion of the investigating agency to decide the course of investigation. If the court is to interfere in each and every stage of the investigation and the interrogation of the accused, it would affect the normal course of investigation. It must be left to the investigating agency to proceed in its own manner in interrogation of the accused, nature of questions put to him and the manner of interrogation of the accused.*

65. *It is one thing to say that if the power of investigation has been exercised by an investigating officer mala fide or non-compliance of the provisions of the Criminal Procedure Code in the conduct of the investigation, it is open to the court to quash the proceedings where there is a clear case of abuse of power. It is a different matter that the High Court in exercise of its inherent power under Section 482 Cr.P.C., the court can always issue appropriate direction at the instance of an aggrieved person if the High Court is convinced that the power of investigation has been exercised by the investigating officer mala fide and not in accordance with the provisions of the Criminal Procedure Code. However, as pointed out earlier that power is to be exercised in rare cases where there is a clear abuse of power and non-compliance of the provisions falling under Chapter-XII of the Code of Criminal Procedure requiring the interference of the High Court. In the initial stages of investigation where the court is considering the question of grant of regular bail or pre-arrest bail, it*

is not for the court to enter into the demarcated function of the investigation and collection of evidence/materials for establishing the offence and interrogation of the accused and the witnesses.”

Considering the afore-said facts and circumstances and also in view of the judgments referred hereinabove, added with the facts that in the preset case challan stands filed on 04.05.2022; charges were framed 10.05.2022; out of total 25 witnesses only one has been examined and the next date before the trial Court is 19.05.2023 so, it is not open to this Court to exercise its inherent powers and extra ordinary jurisdiction under Section 482 Cr.P.C., to unsettle the investigating agency at this stage by no stretch of imagination.

In view of above, the present petition being devoid of any merit, is dismissed.

10th FEBRUARY, 2023
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>