IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

I. **COCP-3538-2018 (O&M)**
Reserved on : March 27, 2023
Date of Pronouncement : March 29, 2023

Dr.Lucky @ Jai Hind Gupta .....Petitioner
Vs.
G.S. Bhinder and another ...Respondents

II. **COCP-3659-2018 (O&M)**

Mukesh Thakur .....Petitioner
Vs.
Surinder Pal Khanna,
the then Jail Superintendent, Ludhiana ...Respondent

III. **COCP-3772-2018 (O&M)**

Lucky @ Jai Hind Gupta .....Petitioner
Vs.
Surinder Pal Khanna,
the then Jail Superintendent, Ludhiana ...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sahil Sharma, Advocate for the petitioner(s).

Mr. Ayush Sarna, AAG, Punjab.

Mr. H.S. Dhindsa, Advocate for the respondents.

ARVIND SINGH SANGWAN, J.

Prayer in the above mentioned petitions is for initiating contempt proceedings against the respondent(s) for willful disobedience

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of the orders dated 19.9.2017; 8.11.2017 and 9.11.2017 in case titled as **"State of Punjab Vs. Mukesh Thakur and another"** arising out of FIR No.343 dated 19.8.2017 under Sections 379-B, 506, 120-B IPC, registered at Police Station Basti Jodhewal, District Ludhiana.

In COCP No.3538 of 2018, it is stated that the petitioner was arrested along with one Mukesh Thakur on 19.8.2017 and was sent in judicial custody. However, he was beaten up by the police and on 9.9.2017, an application was filed for the medical examination. On 19.9.2017, the Illaqua Magistrate directed to carry out medical examination of the petitioner and submit a report. Thereafter, the co-accused Mukesh Thakur was medico-legally examined, however, the petitioner was not examined. It is submitted that subsequent to his release from the custody on grant of bail, the petitioner got himself examined by a private doctor, who reported that the right foot of the petitioner is fractured.

Counsel for the petitioner alleges that as per the order dated 19.9.2017, the respondent, being the Jail Superintendent, Central Jail, Ludhiana was directed to get the medical examination conducted from a Civil Hospital, Ludhiana. However, he was examined only by the jail doctor, thus, there is a violation of the order.

As per the affidavit of the Medical Officer of the aforesaid Jail, he has stated that he did not examin the petitioner in compliance of the order dated 19.9.2017 and, therefore, he has not violated the order.

In COCP-3772-2018, the petitioner alleges the willful disobedience of the judicial order passed by the Illaqua Magistrate on 8.11.2017 and 9.11.2017 in aforesaid FIR No.343. It is stated that the Illaqua Magistrate has issued a production warrant in another case on 23.1.2017, wherein the petitioner was arrested but he was not produced

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before the Court and, therefore, the Superintendent Jail-respondent has violated the order and committed the contempt of Court.

In reply filed by the Superintendent Central Jail, Kapurthala (present posting) it is submitted that as per the Jail record, the petitioner was admitted in jail on 20.8.2017 in FIR No.343 and at that time he was lodged in the jail in pursuance of DDR No.23 dated 22.6.2017 under Sections 107, 151 Cr.P.C., registered at Police Station Division No.1, Ludhiana. Further, he was taken in custody in another FIR No.236 of 2017 under Sections 384, 420 IPC, registered at Police Station Basti Jodhewal, Ludhiana.

It is further stated that the petitioner was released in FIR No.343 on 10.11.2017 as per the order dated 9.11.2017 passed by the Judicial Magistrate and he was also released in aforesaid DDR No.23. However, he was kept in detention in FIR No.236 in a production warrant. It is stated that since there was no clearance regarding the production warrant in FIR No.236, an information regarding the bail confirmation was received on 13.11.2017 and the petitioner was immediately released. It is submitted that the clarification was sought by the Superintendent Jail from the Illaqua Magistrate regarding the petitioner(s) in FIR No.236 on the same day i..e 10.11.2017 and the same was received from the concerned Court on 13.11.2017. On receiving the same, the petitoner was immediately released. Therefore, there is no violation of the orders.

In COCP-3659-2018, petitioner-Mukesh Thakur alleges violation of orders dated 8.9.2011 and 9.11.2017 in case titled as **State of Punjab Vs. Dr. Lucky @ Jaihind and another.** It is stated that the petitioner was arrested on 19.8.2017 and was produced before the Illaqua Magistrate and was medico-legally examined in Civil Hospital, Ludhiana and, thereafter, sent to judicial custody. Later on, the Illaqua

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Magistrate issued production warrants to produce him on 6.11.2017 but he was not produced.

It was further stated that bail application of the petitioner was allowed on 8.11.2017; bail bonds were furnished on 9.11.2017 and a release order was sent to the Jail Superintendent. However, he has sought a clarification on 10.11.2017 from the Illaqua Magistrate to verify whether bail has been granted in FIR No.236 as well or not. Therefore, he was kept in custody till 13.11.2017.

Similar reply is filed by the Superintendent of Jail that as the petitioner was arrested along with co-accused **Mukesh Thakur**, it is stated that the release warrants were issued, however, there was no clarification whether the petitioner was granted bail in FIR No.236 and, therefore, on the same day, a clarification was sought from the Judicial Magistrate, which was received on 13.11.2017 and immediately, the petitioner was released from the custody along with co-accused.

The learned State counsel has submitted that there was no allegation of any *mala fide* by the petitioner against the Jail Medical Officer and since the petitioner(s) were involved in three cases and also there was no clarity in the release order, therefore, a clarification was sought from the Illaqua Magistrate and, thereafter, the petitioner(s) were released immediately.

After hearing learned counsel for the parties, I find that no case of willful disobedience is made out.

Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

March 29, 2023
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Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO

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