

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCP-1796-2023 (O&M)
Date of decision: 28.08.2023

Rishabh Kanojia
.....Petitioner

Versus

Kuldeep Singh and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S. Sood, Advocate
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

The petitioner has filed the present contempt petition alleging non-compliance of the order dated 21.04.2023 passed in CRM-M No.19665 of 2023, titled as “*Rishabh Kanojia vs State of Punjab and others*”, which reads as under:-

“This is a petition under Section 482 Cr.P.C., for issuance of directions to the officials respondents No.2 to 5 for submission of the police inquiry report of the representation dated 02.03.2023 (Annexure P-2) given by the present petitioner to the respondents No.2 to 5.

Notice of motion.

On the asking of Court, Mr. Rajiv Verma, DAG, Punjab accepts notice on behalf of respondent-State.

Learned counsel for the petitioner submits that he will be satisfied in case a direction be issued to respondent No.3 to look into the representation dated 02.03.2023 (Annexure P-2), within a time bound manner.

In view of the above, the petition is disposed of with a direction to respondent No.3 to look into the

representation dated 02.03.2023 (Annexure P-2) and decide the same in accordance with law within a period of four weeks from today with a copy of the order so passed supplied to the counsel for the petitioner.

In view of the above, petition stands disposed of.”

It is submitted that instead of taking appropriate action, the respondent No.4 – Commissioner of Police, Ludhiana, has sent a communication to respondent No.5 i.e. Director General of Police, Punjab, and it was stated that the representation was decided.

Counsel for the petitioner, in this regard, has relied upon some screenshots of WhatsApp messages dated 20.04.2023.

The only argument raised by counsel for the petitioner is that the respondent No.4 has neither given intimation to other respondents as well as the petitioner and therefore, he has violated the direction of this Court.

Reply by way of affidavit of Additional Deputy Commissioner of Police, Zone-4, Ludhiana, is on record, in which it is stated that initially the enquiry was marked by the Commissioner of Police, Ludhiana to Additional Deputy Commissioner of Police-1, Ludhiana, however later on, it was found that the petitioner is levelling allegation against an officer of the rank of DIG and therefore, the ADCP-1, Ludhiana, being a junior officer sent a communication dated 06.05.2023 to this Court as well as to counsel for the petitioner and in view thereof, the Commissioner of Police, Ludhiana, has sent a representation of the petitioner to the DGP, Punjab, Chandigarh for appropriate action. It is further submitted that due to the procedural

intricacies, the representation of the petitioner could not be decided within the specific time and a miscellaneous application i.e. CRM No.26390 of 2023, in the main petition was filed for extension of time, which was listed before the Bench on 14.07.2023 and on 14.07.2023, direction was issued to conclude the enquiry by 14.08.2023. The order dated 14.08.2023, reads as under:-

“Affidavit dated 26.05.2023 of Tushar gupta, IPS, Additional Deputy Commissioner of Police, Zone-4 has been filed, which is taken on record.

This is an application under Section 482 of Cr.P.C., for extension of time to comply with the order dated 21.04.2023.

In para 3 of the application, it has been asserted that the representation i.e., Annexure P-2 to the main petition, which was ordered to be decided within a period of four weeks could not be decided, as the marking of representation for decision to an Officer consumes reasonable time due to procedural intricacies i.e., as respondent No.3 found that the said Officer is senior to her and, therefore, respondent No.3 vide her report No.64/74-5C/ADCP-1 dated 03.04.2023 sent back the said representation of the petitioner and again the matter was sent to the Commissioner of Police, Ludhiana for fresh marking of the same.

Be that as it may in the interest of justice, considering the explanation given in the application, which is duly supported by an affidavit of Officer, the time of four weeks is further extended by another four weeks, which will start from the date of passing of this order i.e., 14.07.2023.

It is directed that necessary inquiry is to be completed positively by 14.08.2023 and a report qua that

be furnished to this Court at least three days prior to the next date of hearing.

Adjourned to 21.08.2023.”

The Commissioner of Police, Ludhiana, has also filed the affidavit dated 02.08.2023, in which similar stand is taken and it is stated that the ADCP, Zone IV, Ludhiana, has conducted an intensive enquiry on the representation of the petitioner and it was found to be false, copy of the enquiry report was sent to the DGP, Punjab, who has approved the same for 26.07.2023.

A copy of the communication issued by the Director General of Police, Punjab, approving that the enquiry conducted by the ADCP, Zone IV, Ludhiana, is relied upon as Annexure R-2 with the reply.

Counsel for the State has submitted that the petitioner is habitual of filing various representations against the police authorities.

The details of the same as provided, reads as under:-

SR	UID	DATE	NAME	TYPE	STATUS
1	1831470	19.07.2020	RISHABH KANOJIA	ACTION ON COMPLAIN TS	SEEN AND FILE 25.11.2021 5-D COMPLAINT
2	2029488	13.05.2021	RISHABH KANOJIA SAMAJ SEWAK SHIV SENA TAKSALI PB.	ACTION ON COMPLAIN TS	ADCP-INV
3	2044456	03.06.2021	RISHABH KANOJIA	LEGAL NOTICE	ADCP-1
4	2044378	03.06.2021	RISHABH KANOJIA	COMPLAIN T AGAINST POLICE	REPLY SENT TO W/DGP PB 24.07.21
5	2044370	03.06.2021	RISHABH KANOJIA	ACTION ON COMPLAIN TS	REPLY SENT TO W/DGP PB WITH 3235/PC DT. 24.07.21

6	2059257	19.06.2021	RISHABH KANOJIA	ACTION ON COMPLAIN TS	ADCP-INV
7	2202286	30.11.2021	RISHABH KANOJIA	ACTION ON COMPLAIN TS	Joint CP City Ludhiana City REMARK ON 18.12.21
8	2366793	11.06.2022	RISHABH KANOJIA PUNJAB PARBHARI SHIV SENA TAKSALI	REIKI	SEEN AND FILE BUNDLE NO:54 YEAR 2022 (ZONE-1)
9	2381358	25.06.2022	RISHABH KANOJIA rishabhkanojia11@gmail.com	THREAT	SEEN AND FILE BUNDLE NO:54 YEAR 2022 (ZONE-1)
10	9830	29.07.2022	RISHABH KANOJIA S/O MAHINDER KANOJIA	Crime Against Person	SEEN AND FILE 68/22 ZONE-1
11	29334	10.09.2022	RISHABH KANOJIA S/O MAHINDER KUMAR	Investigation	2562/PC, DT. 05.11.22 REPLY TO W/ADGP PGD PB. CHD.
12	75358	29.11.2022	RISHABH KANOJIA S/O Mohinder Kumar	Economic Offence	SENT TO SHO SALEM TABRI FOR FIR WITH 27/PC DT. 03.02.23
13	94740	02.01.2023	RISHABH KANOJIA S/O NOT KNOWN	Investigation	SEEN AND FILE 44/23 ZONE-3
14	95589	04.01.2023	RISHABH KANOJIA S/O NOT KNOWN	Investigation	PS DIV NO.5 LUDHIANA CITY
15	96383	05.01.2023	RISHABH KANOJIA S/O NOT KNOWN	Investigation	PS DIV NO.5 LUDHIANA CITY
16	103951	21.01.2023	RISHABH KANOJIA S/O MOHINDER KUMAR	Complaints Against Police	ADCP IV LUDHIANA CITY
17	106434	27.01.2023	RISHABH KANOJIA S/O NOT KNOWN	Investigation	PS DIV NO.5 LUDHIANA CITY
18	113403	09.02.2023	RISHABH KANOJIA S/O MAHINDER KANOJIA	Crime Against Person	SEEN AND FILE 51/23 ZONE-1
19	118834	21.02.2023	RISHABH	Investigation	SEEN AND

			KANOJIA S/O MAHENDER KUMAR		FILE 60/23
20	121025	25.02.2023	RISHABH KANOJIA S/O MAHINDER KUMAR	Investigation	ACP CIVIL LINE SOUTH LUDHIANA CITY
21	124589	03.03.2023	RISHABH KANOJIA S/O MAHENDER KUMAR	Investigation	PS DIV NO.5 LUDHIANA CITY
22	125383	04.03.2023	RISHABH KANOJIA PANJAB PARBARI SHIV SENA TAKSALI S/O NOT KNOWN	Crime Against Person	PS DARESI LUDHIANA CITY
23	125385	04.03.2023	RISHABH KANOJIA PANJAB PARBARI SHIV SENA TAKSALI S/O NOT KNOWN	Crime Against Person	PS DARESI LUDHIANA CITY
24	128053	09.03.2023	RISHABH KANOJIA S/O MAHINDER KUMAR	Complaints Against Police	SENT TO W/DGP PB CHD 1189/PC, DT. 25.04.23
25	136130	25.03.2023	RISHABH KANOJIA S/O MAHINDER KUMAR	Complaints Against Police	SENT TO W/DGP PB CHD 1189/PC, DT. 25.04.23
26	140869	05.04.2023	RISHABH KANOJIA S/O MAHENDER KANOJIA	Investigation	PS DIV NO.5 LUDHIANA CITY
27	141684	06.04.2023	RISHABH KANOJIA S/O MAHENDER KUMAR	Investigation	PS DIV NO.5 LUDHIANA CITY
28	144708	11.04.2023	RISHABH KANOJIA S/O MAHENDER KUMAR	Investigation	PS DIV NO.5 LUDHIANA CITY
29	154931	02.05.2023	RISHABH KANOJIA S/O Mahinder Kumar	Complaints Against Police	SEEN AND FILE BY ADCP-3
30	161508	12.05.2023	RISHABH KANOJIA S/O MAHINDER KUMAR	Crime Against Person	ADCP I LUDHIANA CITY

31	181891	15.06.2023	RISHABH KANOJIA S/O MAHINDER KUMAR	Complaints Against Police, Investigation	FOR LEGAL DA
32	184860	20.06.2023	RISHABH KANOJIA S/O MAHINDER KUMAR	COMPLAIN T AGAINST POLICE	ADCP LUDHIANA CITY
33	192039	01.07.2023	RISHABH KANOJIA S/O MAHINDER KUMAR	COMPLAIN T AGAINST POLICE	ADCP LUDHIANA CITY

The details of different cases filed by the petitioner is also detailed as below:-

Sr No.	Writ No.	Petition Title	Status
1.	CRWP 4765/2021	1. Sh. Deepak Parikh, IPS 2. Dr. Pragya Jain, IPS 3. SI Davinder Singh, SHO, Daresi	Dismissed on 07.03.2022
2.	CRWP 6458/2022	1. Sh. Kaustubh Sharma, IPS 2. Sh. Narinder Bhargav, IPS 3. Insp. Kamaljit Singh SHO Div-8, LDH	Dismissed on 07.07.2022
3.	CRM-M 32821/2022	1. Police Commissioner Ludhiana 2. Sh. Narinder Bhargav, IPS 3. SHO Division No.5, LDH	Dismissed on 31.08.2022
4.	SLP CrI. No.12614/2022 (In CRM-M 32821/2022)	1. Police Commissioner Ludhiana 2. Sh. Narinder Bhargav, IPS 3. SHO Division No.5, LDH	Dismissed on 16.12.2022
5.	CRM-M 15123/2023	1. Sh. Narinder Bhargav, IPS 2. Sh. Maninder Bedi,	Dismissed on 24.03.2022

		PPS 3. SI Harjit Singh, SHO Salem Tabri, LDH 4. Sh. Satish Malhotra, SP (Retd.)	
6.	CRM-M 24271/2023	1. ADGP Security, Punjab 2. Police Commissioner, Ludhiana	Next Dt. 15.09.2023
7.	CRM-M 19665/2023	1. Sh. Narinder Bhargav, IPS 2. Sh. Maninder Bedi, PPS 3. SI Harjit Singh, SHO Salem Tabri. 4. Sh. Satish Malhotra, SP (Retd.)	Disposed off 21.04.2023
8.	COCP 1796/2023	1. Sh. Gaurav Yadav, IPS, DGP, Punjab. 2. Sh. Mandeep Singh Sidhu, IPS, CP Ludhiana 3. Ms Somya Mishra, IPS JCP City, Ludhiana 4. Ms. Rupinder Kaur Sra, PPS 5. SI Kuldeep Singh, SHO Daresi	Next Dt. 03.08.2023
9.	CM 11809/2023 (In COCP 1796/2023)	1. Sh. Gaurav Yadav, IPS, DGP, Punjab. 2. Sh. Mandeep Singh Sidhu, IPS, CP Ludhiana 3. Ms Somya Mishra, IPS JCP City, Ludhiana 4. Ms. Rupinder Kaur Sra, PPS 5. SI Kuldeep Singh, SHO Daresi	Next Dt. 24.07.2023
10.	CM 12062/2023 (In COCP 1796/2023)	1. Sh. Gaurav Yadav, IPS, DGP, Punjab. 2. Sh. Mandeep Singh Sidhu, IPS, CP Ludhiana 3. Ms Somya Mishra, IPS	Next Dt. 24.07.2023

		JCP City, Ludhiana 4. Ms. Rupinder Kaur Sra, PPS 5. SI Kuldeep Singh, SHO Daresi	
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Counsel for the State has further submitted that the necessary compliance has been done and therefore, this contempt petition be rendered infructuous.

The counsel for the petitioner has filed an application under Section 482 Cr.P.C., for rejection of the enquiry report dated 20.07.2023, which is consisting of 1100 pages, submitted by the ADCP, Zone IV, in compliance of the aforesaid order dated 21.04.2023.

Counsel submits that the ground taken in this application is that the ADCP, Zone-IV, Ludhiana is of the same rank and designation of the ADCP-1 and therefore, he was not competent to conduct the enquiry. It is also submitted that while conducting the enquiry, the CCTV footage were not taken into consideration and therefore, the detailed enquiry report consisting of 1100 pages, needs to be rejected.

The counsel for the petitioner has placed on record the order dated 21.08.2023 passed in the CRM No.26390 and No.31700 of 2023, filed in CRM-M No.19665 of 2023, which reads as under:-

“In compliance of the previous order dated 08.08.2023, an affidavit dated 11.08.2023 of Mr. Tushar Gupta, IPS, Additional Deputy Commissioner of Police, Zone-4, Ludhiana has been filed.

Learned State counsel prays for sometime to file a better affidavit and wishes to withdraw the instant reply to the aforesaid show cause notice dated 08.08.2023.

Prayer is accepted with aforesaid liberty.

The inquiry report dated 20.07.2023 stands furnished to the counsel for the applicant-petitioner.

Adjourned to 13.09.2023.

Presence of the above-said Officer namely Mr. Tushar Gupta shall remain exempted till further orders.”

After hearing the counsel for the parties, this Court finds that no willful disobedience of the order is made out as the only direction in the order dated 21.04.2023, was to decide the representation of the petitioner. It is undisputed case that the enquiry has been conducted, which has been duly approved by the DGP, Punjab, who is head of the department and the petitioner has already availed his remedy of filing the miscellaneous application in the main petition against the enquiry report on the alleged ground that it is done by a subordinate officer, therefore, finding that there is no willful disobedience, this contempt petition is dismissed.

The prayer of petitioner to reject the enquiry report dated 20.07.2023 cannot be considered in this contempt petition as it is subject matter of main CRM-M No.19665 of 2023.

However, liberty is granted to the petitioner to avail the alternative remedy in accordance with law, if so advised.

(ARVIND SINGH SANGWAN)
JUDGE

28.08.2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No