

118**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRM-M-38754-2023 (O&M)****Date of decision: August 09, 2023**

Major Singh and another

....Petitioners

versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr.Lupil Gupta, Advocate for petitioners.

ARUN MONGA, J. (ORAL)

This second petition has been filed under Section 482 Cr.P.C. seeking quashing of application dated 06.07.2023 (Annexure P-8), moved by respondent no.6 before learned Trial Court seeking permission for further investigation so that supplementary challan may be submitted in the Court, though a petition filed by the petitioners seeking quashing of 3rd enquiry being conducted by respondent no.5 in FIR No.159 dated 27.06.2019 (Annexure P-1) is still pending final decision by this Court, with status report dated 17.07.2023 also having been filed by the State in that petition. The petitioners also seeks stay of further proceedings in the aforesaid application filed before the trial Court.

2. Succinct facts of the present case, as narrated in the petition are that FIR in the present case was registered at the instance of petitioner no.1 Major Singh against one Gurmail Singh, Sukhjiwan Singh and Jagmail Singh. During investigation, one accused Lachhman Ram was nominated as accused vide GD No.35, dated 05.10.2022, who was arrested by the police and thereafter he was released on bail on 14.10.2023. During the investigation vide Rapat No.19, dated 01.12.2022, aforesaid Gurmail Singh, Sukhjiwan Singh and Jagmail Singh were declared innocent and on 05.01.2023 challan was presented qua accused Lachhman Ram.

2.1. On 21.04.2023, Gurmail Singh moved an application before the ADGP, Range, Bathinda, against petitioner no.1-Major Singh, petitioner no.2-Jaswinder Singh and one Lakhwinder Singh for defrauding Gurmail Singh of an amount of Rs.7.75 lakhs by preparation of fake documents, upon which inquiry DSP (PBI/Homicide) was asked to conduct inquiry. The inquiry was conducted by the DSP PBI/Homicide, Mansa, from whose inquiry petitioner no.1 Major Singh and petitioner no.2 Jaswinder Singh have been found guilty because on 05.09.2018 on the basis of fake writing they tried to usurp an amount of Rs.7.75 lakhs from Gurmail Singh. Upon which the SSP after preparing report written to the ADGP, Bathinda Range, for obtaining order from the trial Court for further investigation and ADGP after approving the aforesaid report had asked for taking further action as per the report. Thereupon SSP, Mansa, directed the SI/investigating officer to conduct investigation.

2.2. On the other hand, petitioner no.1 Major Singh filed a petition bearing CRM-M-26259-2023 in the High Court, in which status report was filed. He submits that from the bare perusal of this status report, it is crystal clear that multiple inquiries have been conducted without following due process and without necessary permission. It is matter of great concern that although the challan has already been filed in the court but the police obtained the thumb impression of petitioners and sent the same to the FSL and as per report of FSL, Lachhman Ram was nominated as accused in the FIR vide DDR No.25 dated 5.10.2022. Now the matter is sub-judice before the Id. Trial court but despite that the respondent No.5 is continuing with the 3rd inquiry without obtaining necessary permission from the respondent No.2 and the petitioners have challenged the same before this Hon'ble court and the said petition is now fixed for 20.9.2023.

2.3. He further submits that the petitioners got bolt from the blue when the respondent No.6 without waiting for the final decision of petition filed by the petitioners before this Hon'ble court and in order to circumvent the process of law, has filed an application dated 6.7.2023, Annexure P-8, before learned JMIC, Mansa seeking permission for further investigation and learned Magistrate has ordered to put up the said application for consideration on 7.8.2023.

2.4. Learned counsel further submits that virtually, respondent No.6 has filed the application on the premise that from the enquiry proceedings, petitioners Major Singh and Jaswinder Singh were found to be main culprits and they have usurped Rs.7,75,000/- of Gurmail Singh. It is matter of great concern that the application has been filed by the respondent No.6 on 6.7.2023 while the approval of the report has been accorded by the SSP Mansa on 10.7.2023. In the status report, in the end of para No.7, it is stated that after approval the report by the SSP Mansa on 10.7.2023, SHO PS Sadar Mansa has submitted application before the Ld. Trial court for obtaining permission to carry on further investigation for filing supplementary challan against both the petitioners. Once the approval of report has been accorded on 10.7.2023, it is matter of great concern that how the respondent No.6 has filed the application on 6.7.2023. This itself shows ill intention of the concerned officer. Hence, the present petition.

3. I have heard learned counsel for petitioners and perused the case file.

4. For better appreciation of the case in hand Section 173(8) of the Cr.P.C.is being reproduced hereinbelow:-

“Section 173(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub- section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub- section (2).”

5. A perusal of the above shows that power of police to conduct further investigation even after filing of final report under Section 173(2) of the Cr.P.C., is recognized under Section 173(8) Cr.P.C.

6. Under the said provision of law, the Magistrate is also empowered to order further investigation based on the subsequent report of the Investigating Officer, in other words, the officer in-charge of the police station, collecting further evidence, either oral or document shall forward the same to the concerned Magistrate, by way of additional

documentary report and if the Magistrate is satisfied that further investigation is needed, based on such report, he can order for further investigation, to meet the ends of justice.

7. It is settled position of law that when power under Section 173(8) Cr.P.C. is exercised, the High Court ordinarily should not interfere with the statutory powers of the investigating agency and cannot issue directions to investigate the case from a particular angle or by a particular agency.

8. In the premise, instant petition is dismissed.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 09, 2023
'D'Vir/A

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No