

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(240)

Neutral Citation No.2023:PHHC:108426-DB

CROCP-4-2022

Decided on : 21.08.2023

Court On Its Own Motion

Versus

Harvinder Singh

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present:- Respondent-contemnor in person with
Ms. Kushaldeep Kaur, Advocate.

G.S. Sandhawalia, J.(Oral)

Present criminal contempt petition has been registered on the basis of a reference received from the Chief Judicial Magistrate, Jalandhar.

2. The sum and substance of the reference is that one accused Amarpal Singh son of Gurcharan Singh was declared a Proclaimed Offender in FIR No.30 dated 27.02.1991 registered under Section 7 of the Essential Commodities Act at Police Station Division No.4, Jalandhar. He had been arrested on 24.01.2022 by ASI Faqir Singh. An application for judicial remand had been made on 25.01.2022 and he was remanded in judicial custody till 08.02.2022 and custody warrants were given to the SHO in the name of Superintendent, Central Jail, Gurdaspur. The accused was ordered to be sent to jail with a direction to the Jail Superintendent to retain him in custody and to produce him on 08.02.2022. It came to the notice of the referral Court that the accused had been admitted in Civil Hospital, Jalandhar, instead of sending him to Central Jail, Gurdaspur and resultantly notice was issued to the respondent-contemnor SHO Harvinder Singh, Police Station, Division No.4.

3. In reply to the show cause notice he had stated that accused was found corona positive and remained admitted in Civil Hospital, Jalandhar and kept there for 7 days quarantine period, but also thereafter re-admitted by the doctors. However, the Court could not be informed by SI Surjit Singh (No.908/PAP) as he was new and learning the duty and there was heavy work load due to elections.

4. The reply as such was rejected by the referral Court on the ground that there was no plausible reason for emergency admission of the accused and by keeping the accused outside the jail he has committed a criminal offence with dishonest intention to extend the undue benefit to the accused Amarpal Singh, who was a proclaimed offender for the last more than 20 years. Resultantly, the referral Court found that there was an offence made out under Section 2 (c) of the Contempt of Courts Act, 1971 and the respondent herein had scandalized and lowered the authority of the Court and it would amount to interference with the due course of judicial proceedings as well as obstructing the administration of justice.

5. Reply has also been filed by the contemnor-respondent herein by way of affidavit dated 31.10.2022, wherein it has been mentioned that he tenders his unconditional apology and if the lapse has occurred in complying the orders of the Court, same was completely unintentional and unintended. He has the highest regards for the Courts and could not think of disobeying the orders of the Courts. It has further been averred that on 25.01.2022 the accused was taken to sub-jail CIA-2 Jalandhar by ASI Fakir Singh awaiting the report of Covid Test. On the same day he fell ill and was taken to the Civil Hospital, Jalandhar and as per report dated 26.01.2022 he was found Covid positive and admitted and quarantined in the Prisoner Ward of the Civil Hospital. The period of quarantine having

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ended on 01.02.2022 necessary instructions had been issued to take him to Central Jail, Gurdaspur in compliance of the order dated 25.01.2022 and in this regard DDR No.15 dated 01.02.2022 was also recorded. However, he had again been admitted by the doctor in the hospital again, though Covid report of the accused was negative and, therefore, could not be sent to custody. He was only taken to Central Jail, Gurdaspur on 08.02.2022 after receiving a call from the Civil Hospital that he has been recovered and has been discharged. It has further been mentioned that the lapse has occurred as the due intimation in accordance with the procedure was not sent to the Court, which was duly unintentional and SI Surjit Singh had come from Punjab Armed Police and was still learning the nuances of criminal procedure. Therefore, he tendered his unconditional and unqualified apology.

6. We have also perused the explanation initially before the referral Court. It is also a matter of record that at that point of time before the accused Amarpal Singh was sent to jail he was tested Covid positive and thereafter had been duly quarantined. Today, the deponent is also present in the Court and submits that he would be careful in future. The fact remains that at that point of time when the accused Amarpal Singh was found Covid positive, the country was recovering from third phase of Covid-19 and, therefore, necessary precautions had to be taken, so that accused who had tested positive is not taken to jail, which would have further caused infection to other prisoners.

7. In such circumstances, the reasoning given by the Referral Court that there was no emergency shown which required admission or treatment of the accused cannot be held to be justified in any manner, keeping in mind the fact that Covid-19 infection is highly contagious and

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though might not be a case of emergency but could be a fuelling factor for spreading infection in confined quarters to which the accused was to be sent. The Referral Court apparently was aggrieved by the fact that the said intimation was not given to the Court and only during a bail application filed, this factor came to its notice due to which it came to the conclusion that the action of the respondent had amounted to scandalizing and lowering the authority of the Court and interfering with due course of judicial proceedings as well as obstructing the administration of justice. The failure of not intimating the Court was justified by giving an explanation that the duty had been given to SI Surjit Singh who was comparatively new in the field having come from the Punjab Armed Police and not aware of the nuances of not informing the Court and also on account of heavy work load due to elections. Apparently, no notice was issued to SI Surjit Singh for the dereliction of the Court orders and therefore, we do not feel that it is a case where the respondent is liable to be proceeded against for the justifiable reasons he has put-forth.

8. In such circumstances, we accept the explanation given by the respondent-contemnor and the affidavit whereby he has tendered his unconditional and unqualified apology. Accordingly, we do not feel that it is a fit case to further proceed in the matter. The rule stands discharged.

(G.S. SANDHAWALIA)
JUDGE

21.08.2023
Naveen

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No