

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-41913-2023(O&M)
Date of Decision: 06.10.2023

Sumit Daitan

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Tejpal Singh Dhull, Advocate, for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for issuance of necessary directions to learned Additional District & Sessions Judge, Jind for allowing the petitioner to record his statement/testimony through video conferencing mode in respect of three FIRs as follows:

- (i) *FIR No.225 dated 10.08.2021, under Sections 148, 149, 307, 323, 452, 325 and 506 IPC, Police Station Civil Line, Jind;*
- (ii) *FIR No.445 dated 01.10.2020, under Sections 307, 506, 323, 324 and 34 IPC, Police Station Jind City;*
- (iii) *FIR No.331 dated 13.09.2020, under Sections 302, 323, 325, 427 and 447 IPC, Police Station Jind Sadar*

2. Learned counsel for the petitioner has submitted that the petitioner discharged his duties as Medical Officer in Civil Hospital, Jind earlier and now he is working as Junior Resident in All India Institute of

Medical Sciences, Delhi and is also dedicated to his duties for 24 hours and is also doing his academic work in addition to his job. He further submitted so far as the time when he was posted at Jind, he was summoned as an expert witness in number of cases for expert evidence but his evidence can now be recorded by way of video conferencing. However the learned Additional Sessions Judge has issued bailable warrants against him and not accepted the request of the petitioner for recording of evidence because there was no sufficient time available to the petitioner to make such a request in time in the aforesaid three cases.

3. This Court while issuing notice of motion had called for comments from the concerned Court i.e. learned Additional District and Sessions Judge, Jind pertaining to the aforesaid three cases and also with regard to the permissibility of the video conference in such type of expert opinions pertaining to doctors.

4. A report has been received from the learned Additional District and Sessions Judge, Jind dated 25.09.2023. Learned Additional District and Sessions Judge, Jind has given the factual position pertaining to all the aforesaid three FIRs which is as follows:-

- (i) So far as FIR No.225 dated 10.08.2021 is concerned, it has been so reported that although bailable warrants were issued against the petitioner but they were issued inadvertently because his evidence already stands recorded on 09.01.2023 as PW-5 and the aforesaid bailable warrants which were issued have since been recalled back unexecuted. It has been specifically clarified by the Additional District and Sessions Judge that the summons

as well as bailable warrants against the petitioner was due to inadvertent and *bona fide* mistake. However, no request was received from the petitioner for recording the evidence through video conferencing.

- (ii) So far as FIR No.331 dated 13.09.2020 is concerned, it has been so reported by the Additional District and Sessions Judge that learned Public Prosecutor for the State has already given up the petitioner being unnecessary and closed the prosecution evidence and no bailable warrants were even issued against the petitioner in this FIR.
- (iii) So far as FIR No.445 dated 01.10.2020 is concerned, it has been so reported by the Additional District and Sessions Judge that no request for recording the evidence through video conferencing has been received from the petitioner and bailable warrants were issued accordingly.

In the concluding part of the report it has also been stated by the Additional District and Sessions Judge that evidence of expert witnesses is being recorded through the medium of video conferencing by the Court in various cases wherein witnesses so requests and no request to record the evidence through video conferencing by an expert has been declined in any case.

5. Ms. Harpreet Kaur, learned Assistant Advocate General, Haryana has stated that since the evidence pertains to expert evidence by a doctor, the State has got no objection in case the evidence is recorded through video conferencing.

6. In view of the aforesaid factual position as stated by the learned Additional District and Sessions Judge, Jind, so far as point No.1 and 2 as aforesaid are concerned, nothing survives and so far as point No.3 pertaining to FIR No.445 dated 01.10.2020 is concerned, the learned counsel for the petitioner has submitted that no time was given to the petitioner for making a request for recording the evidence through video conferencing because straightway bailable warrants were served upon him and before that no summons were served upon him. The order by which bailable warrants were issued is Annexure P-11.

7. In view of the aforesaid position and report given by the Additional District and Sessions Judge that whenever any request for recording the evidence through video conferencing is received from an expert, then it is not declined, this Court is of the view that the bailable warrants issued against the petitioner vide Annexure P-11 are not sustainable. Consequently, order dated 17.08.2023 is set aside to the extent of issuance of bailable warrants against the petitioner.

8. On a specific query being raised to the learned counsel for the petitioner as to whether in case he is so required for recording of the evidence, then whether he is interested in putting in a physical appearance or through video conferencing to which he stated that in case any evidence is required, then he will make a separate request for recording of evidence by way of video conference.

9. In view of the above, in case the evidence of the petitioner is required in the aforesaid FIR No.445 dated 01.10.2020, then the petitioner shall be intimated well in time with regard to the date fixed and in case the petitioner wishes to make any request for getting his statement recorded

through video conferencing, then such a request shall be considered by the learned Additional Sessions Judge in accordance with law.

10. In view of the above, the present petition is partly allowed.

06.10.2023
rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No