

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

**CRM-M-7172-2014 (O&M)
DATE OF DECISION:-01.06.2023**

Sham Lal Thukral

...Petitioner

vs.

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R. K.Singla, Advocate, with
Mr. Siddharth Gupta, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

Mr. J. S. Brar, Advocate, for the complainant.

HARKESH MANUJA, J.

(1) By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of the orders dated 19.12.2013 (P-14) and 04.09.2010 (P-9) passed by the Courts below along with all consequential proceedings arising out of FIR No.94 dated 14.09.2010 registered under Section 465, 471 IPC at Police Station Civil Lines, Bathinda (P-12).

(2) Briefly stating, the facts of the present case are that one FIR No.473 dated 06.08.2005 was registered at Police Station Kotwali, Bathinda, under Sections 420, 465, 468, 467, 120-B IPC, against the petitioner and his wife at the instance of one Kartar Singh Zora son of Atma Singh resident of Bathinda. Regarding the aforementioned FIR, CRM-7234-M-2006 was filed at the instance of petitioner and his wife seeking quashing of the same wherein notice of motion was issued by this Court vide order dated 06.02.2006, the same is reproduced as under:-

*“Learned counsel contends that the dispute between
the petitioner and the complainant is purely of civil nature*

and that complaint after complaints are being filed against the petitioner by the complainant. Learned counsel further submits that one senior police official is close to the complaint and the interim inquiry against the petitioner is being conducted in a tainted manner.

Notice of motion for 21.02.2006.

Notice re: stay.”

(3) During its pendency, interim order was passed by this Court whereby directions were issued to the trial Court to adjourn the case beyond the adjourned date. Some of the zimni orders which are relevant for the purpose of adjudication of the present petition are reproduced as under:

“CRM-7234-M-2007 (O&M)

Dr. Sham Lal Thukral and Anr. Vs. State of Punjab and Anr.

Present : Mr. Raman Mohinder, Advocate for the petitioner.

Mr. M. C. Berry, Sr. DAG, Punjab.

On request, adjourned to 18.01.2007.

The trial Court is directed to adjourn the case beyond the adjourned date.”

November, 28, 2006

Sd/- RANJIT SINGH

JUDGE

CRM-7234-M-2007 (O&M)

Dr. Sham Lal Thukral and Anr. Vs. State of Punjab and Anr.

Present : Mr. R. K. Battas, Advocate, for the petitioner.

Mr. M. C. Berry, Sr. DAG, Punjab.

On request, adjourned to 14.02.2007

Interim order to continue.

18.01.2007

Sd/- RANJIT SINGH

JUDGE

CRM-7234-M-2007 (O&M)

Dr. Sham Lal Thukral and Anr. Vs. State of Punjab and Anr.

Present : Mr. R. K. Battas, Advocate, for the petitioner.

Mr. M. C. Berry, Sr. DAG, Punjab.

Mr. J. S. Brar, Advocate, for the complainant.

Mr. Brar seeks time to file reply.

Adjourned to 16.04.2007.

Interim order to continue.

February 14, 2007

Sd/- RANJIT SINGH
JUDGE

CRM-7234-M-2007 (O&M)

Dr. Sham Lal Thukral and Anr. Vs. State of Punjab and Anr.

Present : Mr. Raman Mohinder, Advocate, for
Mr. R. K. Battas, Advocate, for the petitioner.
Mr. M. C. Berry, Sr. DAG, Punjab.

Mr. Raman appearing on behalf of Mr. R. K. Battas, seeks time to
place o record some additional documents.

Adjourned to 02.08.2007.

Interim order to continue.

April 16, 2007

Sd/- RANJIT SINGH
JUDGE

CRM-7234-M-2007 (O&M)

Dr. Sham Lal Thukral and Anr. Vs. State of Punjab and Anr.

Present : Mr. N. K. Sharma, Advocate, for the petitioner.
Mr. M. C. Berry, Sr. DAG, Punjab.
Mr. J. S. Brar, Advocate.

On request, adjourned to 03.10.2007.

Interim order to continue.

August 02, 2007

Sd/- RANJIT SINGH
JUDGE

Crl.Misc. No.78429 of 2007 in

CRM-7234-M-2007 (O&M)

Dr. Sham Lal Thukral and Anr. Vs. State of Punjab and Anr.

Present : Mr. N. K Sharma, Advocate, for
Mr. R. K. Battas, Advocate,
for the applicant-petitioners.

Application allowed. Affidavit taken on record. .

August 02, 2007

Sd/- RANJIT SINGH
JUDGE

CRM-7234-M-2007 (O&M)

Dr. Sham Lal Thukral and Anr. Vs. State of Punjab and Anr.

Present : Mr. R. D. Gupta, Advocate, for
Mr. R. K. Battas, Advocate, for the petitioners.
Mr. M. C. Berry, Sr. DAG, Punjab.

Request for adjournment is made on the ground that arguing counsel is in
personal difficulty.

Adjourned to 11.12.2007.

October 03, 2007

Sd/- RANJIT SINGH
JUDGE

CRM-7234-M-2007 (O&M)

Dr. Sham Lal Thukral and Anr. Vs. State of Punjab and Anr.

*Present : Mr. J. S. Brar, Advocate, for the petitioner.
Ms. Rita Kohli, Addl. A. G. Punjab.*

On request, adjourned to 30.01.2008.

Interim order to continue.

11.12.2007

*Sd/- RANJIT SINGH
JUDGE”*

Although this Court vide interim order dated 28.11.2006 directed the trial Court to adjourn the case beyond the date fixed by this Court only, however, the petitioner filed an affidavit dated 02.02.2008 before the trial Court to the effect that the proceedings before this Court were stayed till the next date of hearing. The contents from the affidavit dated 02.02.2008 are reproduced hereunder:

“I, Dr. Sham Lal Thukral son of Sh. Topan Dass, resident of A-5/II, Civil Lines, Bathinda, aged about 57 years, do hereby solemnly affirm and declare as under:-

- 1. That petition for the quashing of the FIR and the proceedings submitted in the Hon’ble High Court in the above noted case and the next date of hearing in the above noted case is 22.04.2008.*
- 2. That the proceedings have been stayed by the Hon’ble High Court till the next date i.e., 22.04.2008.*

Verified that the above statement of mine is true and correct to the best of my knowledge and belief and nothing has been concealed therein.

Dated: 2.02.2008

Sd/-Deponent.

Place: Bathinda”

Resultantly, the complainant-Kartar Singh moved an application under Section 340 Cr.P.C. before the trial Court wherein vide order dated 04.09.2010, a direction was issued to register FIR under Section 465, 471

IPC against the petitioner, though, having recorded a specific finding that the proceedings under Section 340 Cr.P.C. were not maintainable against him.

(4) Aggrieved against the order dated 04.09.2010 passed by the Court of JMIC, Bathinda, the petitioner filed a revision petition, however, the same was also dismissed vide order dated 19.12.2013 (P-14) passed by learned Additional Sessions Judge, Bathinda, thereby, upholding the order dated 04.09.2010 passed by the trial Court.

(5) Present petition has been filed impugning both the orders dated 04.09.2010 & 19.12.2013 passed by the Courts below. As a subsequent development, during pendency of the present petition, parties have entered into a settlement and resultantly the main FIR No.473 dated 06.08.2005 registered at Police Kotwali, Bathinda under Sections 420, 465, 468, 467, 120-B IPC already stands quashed by this Court vide order dated 29.05.2023 passed in CRM-7234-M of 2006.

(6) Learned counsel for the petitioner submits that in the facts and circumstances of the present case, no offence under Section 465, 471 IPC is made out against the petitioner as the affidavit dated 02.02.2008 was filed by him merely on account of *bona fide* error and was a result of miscommunication with his counsel and never intended to overreach the process of Court. He also submits that in the main FIR, parties have already settled their differences resulting into quashing of the same.

(7) On the other hand, learned State counsel opposes the prayer made herein while submitting that the affidavit was filed in total contradiction with the interim orders passed by this Court which never ordered for stay of proceedings before the trial Court, however, learned

counsel representing the complainant has supported the cause of the petitioner in view of the settlement arrived at between the parties.

(8) I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made on behalf of the petitioner.

(9) Although, a perusal of order dated 28.11.2006 passed by this Court in CRM-7234-M of 2007 shows that the trial Court was merely directed to adjourn the hearing beyond the date fixed by this Court, somehow an affidavit was filed on behalf of the petitioner before the Court below mentioning about the grant of stay of proceedings by this Court which, evidently, in the present facts seems to be an un-intentional and bonafide error due to miscommunication with no dishonest intent to cause any damage or injury or commit fraud with anyone, as rightly professed on his behalf. Moreover, even if, the affidavit is taken to be at its face value, what is apparent that the petitioner did not even gain anything illegal by filing the said affidavit as in any case this Court vide its interim orders directed the trial Court to adjourn the case beyond the date fixed by this Court and therefore, no damage and injury was caused either to the prosecution or to the administration of justice as the trial Court, in either of eventuality was in a position to proceed further with the matter pending before it and thus, the petitioner cannot be termed to have committed any forgery. At best, in the present facts, it appears that the scribe of the affidavit dated 02.02.2008, filed by the petitioner, went little beyond his instructions by concluding that the proceedings before the trial Court were ordered to be stayed though the interim direction was merely to adjourn the hearing beyond the date fixed before this Court.

(10) Equally important, the parties have already entered into a settlement and the main FIR already stands quashed by this Court vide order dated 29.05.2023. In view of the aforesaid to maintain peace and harmony and to give complete quietus to the long drawn litigation between the parties, who have remained at logger heads, though being neighbours, the petition is allowed. Orders passed by the Courts below passed on 19.12.2013 (P-14) and 04.09.2010 as well as FIR No.94 dated 14.09.2010 registered under Section 465, 471 IPC at Police Station Civil Lines, Bathinda in pursuance thereof, are hereby quashed.

(11) The aforesaid order shall however, be subject to payment of costs of Rs.10,000/- to be deposited by the petitioner with the Punjab and Haryana High Court Association Lawyer's Family Welfare Fund having Account No.41564846387 with State Bank of India, High Court Branch, Chandigarh, within a period of two weeks from today.

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

01.06.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No