

CRM-M-8795-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(I) CRM-M-8795-2022 (O&M)
Date of Decision: 09.01.2024

HARISH GUPTA -Petitioner

V/S

STATE OF HARYANA AND ANOTHER -Respondents

(II) CRM-M-15186-2022 (O&M)

SACHIN SINGHAL -Petitioner

V/S

STATE OF HARYANA AND ANOTHER -Respondents

(III) CRM-M-15354-2022 (O&M)

SATINDER WALIA -Petitioner

V/S

STATE OF HARYANA AND ANOTHER -Respondents

CORAM: HON’BLE MR. JUSTICE KULDEEP TIWARI

Argued by: Mr. R.S. Rai, Sr. Advocate with
Mr. Jain Sehgal, Advocate and
Mr. R.D. Gupta, Advocate
for the petitioner(s)
(in CRM-M-8795-2022 & CRM-M-15186-2022).

Mr. Viren Jain, Advocate
for the petitioner (in CRM-M-15354-2022).

Mr. Yuvraj Shandilya, A.A.G., Haryana.

Ms. Puneeta Sethi, Sr. Panel Counsel with
Mr. Hari, Sr. P.P.,
for the respondent No.2- S.F.I.O.

KULDEEP TIWARI, J.

1. The amenability of all these petitions, for being decided through a common verdict, emanates from common issue(s) being involved therein, besides emanates from common relief(s) being craved to be reaped

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therein.

2. Since the issue(s), as involved in all these writ petitions is quite concise, inasmuch as, non-supplying of certain documents (i.e. the complaint in question along with its annexures) constitutes the bedrock of these petitions, therefore, only the relevant facts are being considered by this Court. For the sake of brevity, the facts are being extracted from CRM-M-8795-2022.

3. Upon the respondent No.2-S.F.I.O. filing a complaint bearing CIS No. COMA-17-2021, the petitioner, along with other co-accused, was summoned, vide order dated 16.08.2021 (Annexure P-1), by the learned trial Court to face trial.

4. The learned senior counsel appearing for the petitioner submits that since the petitioner was required to surrender before the learned trial Court, in compliance of the summoning order (Annexure P-1), he required copy of the complaint as well as its annexures, based whereupon his summoning was ordered. Though a copy of the complaint in question was supplied to the petitioner, however, non supply of annexures enclosed with the said complaint acted as a handicap for the petitioner to prepare his defence, and/or, to avail the available legal recourse. Resultantly, the petitioner moved an application, under Section 207 of the Cr.P.C., before the learned trial Court, thereby seeking supply of the non-supplied documents (supra). However, the said application did not find favour with the learned trial Court, as vide order dated 03.02.2022 (Annexure P-5), the learned trial Court wrongly and illegally declined to supply the desired documents.

5. Therefore, the learned senior counsel for the petitioner submits

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that not only the impugned order (Annexure P-5) is required to be set aside, but a direction is also required to be issued to the respondent No.2-S.F.I.O. to forthwith supply all the desired documents to the petitioner.

6. Per contra, the learned counsel appearing for the respondent No.2-S.F.I.O. has vociferously opposed the grant of asked for relief(s), on the ground, that the stage of invocation of Section 207 of the Cr.P.C. has not yet arrived, as the petitioner is yet to surrender before the learned trial Court. The statute makes it obligatory upon the trial Court to furnish documents to the accused, in compliance of Section 207 of the Cr.P.C., only when the accused has surrendered before it.

7. Upon this, the learned senior counsel for the petitioner has drawn attention of this Court towards the summoning order (Annexure P-1), to contend that the learned trial Court has therein made it unambiguously clear that complete paper book of complaint be supplied to the summoned accused. The relevant extract of the summoning order (Annexure P-1) is reproduced as under:-

“Let, all the accused persons detailed above, be accordingly summoned to face trial for the commission of offences in the manner described, for 23.11.2021, on furnishing of complete paper book of complaint....”

8. The learned senior counsel for the petitioner has further submitted that since some of the summoned accused could not be served, owing to several reasons, the trial Court, vide order dated 23.11.2021 (Annexure P-13), had reiterated its directions qua complete copies of the complaint alongwith its annexures being supplied by the SFIO to the accused along with summons/bailable warrants. The relevant extract of order dated 23.11.2021 is reproduced hereinafter:-

“Complaint SFIO is further directed to provide the complete copies of

the complaint alongwith its annexures to be sent alongwith the fresh summons/bailable warrants. However, in case the annexures are voluminous in nature, on request of the accused, once he make oneself subject to jurisdiction of this court either by getting bail or getting anticipatory bail from the Hon'ble High Court, he/she may be provided with soft copy of the same on request, to prevent wastage of paper."

9. On the strength of the above findings, the learned senior counsel for the petitioner submits that, once the trial Court had itself ordered supply of the complaint along with its annexures to the petitioner/accused, there was no occasion for the complainant S.F.I.O. to deny the requisite documents to the petitioner, by taking shelter of the provisions enclosed in Section 207 of the Cr.P.C.

10. The learned counsel for the petitioner submits that, at this stage, though he does not intend to assail the validity of the impugned order (Annexure P-5), however, since the desired documents have already been supplied to co-accused, therefore, supply of said documents also to the petitioner would not cause any harm or prejudice to the S.F.I.O., rather it would enable the petitioner to well prepare his defence, and/or, take the available legal recourse, as liberty of the petitioner is under threat, consequent upon passing of the summoning order.

11. Be that as it may, this Court, through passing an order on 10.03.2022, had directed the trial Court to adjourn the case beyond the date fixed before this Court. Resultantly, owing to this interim stay, which is yet in subsistence, no further proceedings qua the petitioner were carried out by the trial Court and thereby the rights of the complainant S.F.I.O. have been affected.

12. This Court, on 14.12.2023, had directed the learned counsel for the respondent No.2-S.F.I.O. to bring the copy of complaint and other

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relevant documents, as attached with the final report, either in soft or hard copy.

13. Resultantly, in compliance of directions (supra), today the learned counsel for the respondent No.2-S.F.I.O. has handed over to the learned counsel for the petitioner the copy of complaint and investigation report in hard copy, whereas, the annexures enclosed with the complaint are handed over in soft copy, i.e. in pen-drive.

14. The learned senior counsel for the petitioner assures this Court that since the desired documents are supplied to him, he will forthwith take the available legal recourse, as the petitioner does not have any intention to run away from the clutches of law.

14. Since the requisite documents are voluminous in nature, the learned senior counsel for the petitioner has very fairly submitted that he is ready to bear the costs, as may be incurred in making photocopies of the requisite documents. Therefore, he is directed to forthwith deposit Rs.10,000/-, through drawing a demand draft in favour of Pay and Accounts Office, MCA.

15. Since the prime grievance of the petitioner, as canvassed herein, stands redressed, no further order is required to be made by this Court.

16. Disposed of accordingly.

(KULDEEP TIWARI)
JUDGE

09.01.2024
devinder

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