

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8457-2024 (O&M)
Date of Decision: 15.03.2024

PARAMPAL SINGH

.....PETITIONER

Vs.

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. K.B. Raheja, Advocate,
for the petitioner.

Ms. Himani Arora, A.A.G., Punjab.

HARPREET KAUR JEEWAN J. (ORAL)

1. Prayer in the present petition is for setting aside the order dated 01.02.2024 (Annexure P-4) passed by learned Judicial Magistrate Ist Class, Abohar, whereby the application filed by the petitioner seeking production of the accounts books from the investigating agency and for issuance of a direction to the complainant to produce the receipts of payments has been dismissed under Section 91 of the Code of Criminal Procedure, 1973.

2. Counsel for the petitioner *inter alia* contends that in the application dated 03.01.2024 (Annexure P-2) he has specifically alleged that during the investigation the police has taken into possession all the account books from the petitioner, however, no averments has been made to controvert the said contentions in the reply (Annexure P-3) filed by the State.

3. It is further contended that notice to the said application to the complainant was not issued which led to dismissal of the petition.

4. Learned State counsel contends that the complainant has allegedly joined the Gym on 16.02.2020 and the occurrence took place on 29.02.2020. Since the complainant had visited the Gym only for 13 days which is less than a month, as such, no receipt was issued.
5. I have considered the aforesaid contentions.
6. In the reply, the State has neither admitted nor denied having taken into possession the account books which were sought to be produced, vide application (Annexure P-2). There is nothing on record to show that the trial Court had issued a notice to the complainant as one of the direction sought was qua the complainant to produce the receipts.
7. In such circumstances, the impugned order 01.02.2024 (Annexure P-4) passed by learned Judicial Magistrate Ist Class, Abohar, is not sustainable in the eyes of law.
8. Consequently, the petition is allowed and the impugned order 01.02.2024 (Annexure P-4) is set aside.
9. The State will file a fresh reply to the application and the trial Court would decide the same afresh after issuing a notice to the complainant.
10. Pending miscellaneous application (s), if any, shall also stand disposed of.

March 15, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether SpeakingYes
Whether reportableNo