



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

216

CWP-8513-2021

Date of Decision : 13.12.2024

PREMPAL MASIH

.... PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Rahul Narwal, Advocate for
Dr. Sumati Jund, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. On 30.04.20221, the following order was passed :

“Learned counsel for the petitioner, inter-alia, contends that the impugned transfer order dated 09.04.2021 (Annexure P-6) is punitive in nature, inasmuch as, the ostensible reason stated therein for transferring the petitioner is that a criminal complaint under Section 138 of Negotiable Instruments Act is pending against the petitioner. Criminal proceedings therein are stated to going on. She contends that the said reason is patently erroneous, as is borne out from order dated 08.07.2021 (Annexure P-2), a bare perusal of which would reflect that the said criminal complaint, which in any case was quasi criminal in nature, arising out of a cheque



bouncing, was withdrawn by the complainant way back in the year 2017.

Learned counsel further contends that the order has been passed with mala fide reasons, due to certain bias harbored against the petitioner by one of his superior. Impugned order has been passed under the garb of implementation of an order passed by this Court on 15.03.2021 in CWP No.12011 of 2020, wherein it was observed that all those police officials against whom either criminal proceedings are pending or have been convicted, appropriate action be taken by the department. She contends that petitioner by no stretch of imagination is covered by the said order passed by this Court, which is sought to be implemented while passing the impugned transfer order.

Notice of motion.

Mr. Amit Mehta, Senior Deputy Advocate General, Punjab, on service of advance copy of the petition, joins the proceedings and accepts notice on behalf of State of Punjab and seeks time to file reply. Adjourned to 23.09.2021.

Meanwhile, operation of the impugned transfer order dated 09.04.2021 (Annexure P-2) qua the petitioner, shall remain stayed till the next date of hearing.”

2. Mr. Rahul Narwal, Advocate submits that the petitioner was transferred on account of pending complaint under Section 138 of Negotiable Instruments Act, 1881 (for short ‘NI Act’). The complaint



CWP-8513-2021 3

stands settled and a period of 03 years from the passing of impugned order has passed away.

3. Mr. Dhir, on being confronted with aforesaid facts, expressed his inability to controvert the same.

4. A period of three years from the date of impugned order whereby the petitioner was transferred has passed away. On account of interim orders of this Court, the petitioner was not transferred. The reason of transfer was pending criminal complaint under Section 138 of NI Act which stands settled.

5. In the wake of aforesaid facts and circumstances, this Court finds it appropriate to make interim order absolute.

6. Disposed of.

(JAGMOHAN BANSAL)
JUDGE

13.12.2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No