

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-671 of 2010 (O&M)
Date of Decision: 28.02.2024

SPS RathorePetitioner
versus
State of Haryana and othersRespondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI, JUDGE

Present : Ms. Abha Rathore, Advocate, for the petitioner.

Mr. Pawan Girdhar, Addl. Advocate General, Haryana.

Mr. Deepak Sabharwal, Advocate for the CBI.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (oral)

CRM No. 6613 of 2023

The present application has been filed by the Investigating Agency-Central Bureau of Investigation (CBI) praying for fixing of actual date of hearing of the main case and taking the same on board. For the reasons mentioned in the application, the petition is taken on board for hearing today itself. Application stands disposed of.

CRM No. 6615 of 2023 in/and CRM-M-671 of 2010

The present application has been filed by the Investigating Agency-Central Bureau of Investigation (CBI) praying for vacation of the order dated 25.01.2010 whereby the presentation of the final report has been stayed and also seeking permission to the agency to present the closure report in FIR RC No. 3(S)/2010-CBI/SC-1/New Delhi, dated 11.01.2010 under Sections 306, 107, 108 and 120-B of the Indian Penal Code, Police Station CBI, SC-1, New Delhi.

2. Challenge in the present petition is to quash the FIR No. 7 dated 05.01.2010, Police Station Sector-5, Panchkula, (RC No. 3(S)/2010-CBI/SC-

1/New Delhi, dated 11.01.2010, under Sections 306, 107, 108 and 120-B of the Indian Penal Code, Police Station CBI, SC-1, New Delhi).

3. The order dated 25.01.2010 sought to be modified as such reads as under:-

“In the present case, earlier Criminal Misc. No. 44967 M of 2001 was filed under Section 482 of the Code of Criminal Procedure (in short Cr.P.C.) for quashing of the order dated 23.10.2001, passed by Special Judicial Magistrate, C.B.I., Ambala whereby, an application moved by Mrs. Madhu Parkash for adding offence, under Section 306 of the Indian Penal Code (in short ‘IPC’) was allowed.

Vide order dated 12.2.2002, this Court allowed the petition and the impugned order was quashed. Special Leave Petition filed against the said order was dismissed by Hon’ble the Apex Court vide order dated 12.04.2002. Now the C.B.I. has registered an FIR in question under Section 306 IPC.

Since the matter in question is of importance, consequently, this petition is Admitted to D.B.

In the meantime, investigation of the case may go on but the final report be not presented.

Learned senior counsel for the petitioner has submitted that the petitioner is ready and willing to join the investigation.

In view of the facts and circumstances of the present case, in case the C.B.I. feels any necessity to arrest the petitioner during the course of investigation, prior notice of four days be issued to the petitioner to enable him to avail his appropriate remedy.”

4. On the last date of hearing i.e. 28.07.2023, we had noticed that Ashu Gilhotra-applicant had filed a CRM-2467-2010 for being impleading him as respondent No.3 and therefore, a direction was issued to the applicant-CBI to make efforts to serve him. As per the office report, the applicant-Ashu Gilhotra is not residing on the given address.

5. Mr. Deepak Sabharwal, learned counsel appearing for CBI contends that on account of the interim order as such passed by this Court, the final report as well as the closure report have not been presented to the trial Court.
6. Keeping in view the averments made in the application filed by the Investigating Agency duly supported by the affidavit of Mohinder Ram, Inspector of Police, CBI, that the allegations made in the FIR have not been substantiated on reviewing of the entire evidence, it is apparent that the present petition has become infructuous inasmuch as the challenge itself no longer survives as the Investigating Agency apparently wishes to file a closure report before the trial Court.
7. In such circumstances, we allow the Investigating Agency-Central Bureau of Investigation to submit its closure report before the concerned Court. Needless to say the Trial Court shall issue notice to all concerned before acting upon it. As pointed out by learned counsel for the petitioner that since certain protection had been granted as such to the petitioner, who is now stated to be 83 years old, we deem it a fit case to grant exemption to the petitioner from appearing in person before the trial Court. The trial Court can direct the petitioner to appear through video conferencing or through his counsel till such time his physical presence is not necessary.
8. With these observations, the petition stands disposed of.

(G.S.SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

28.02.2024

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RAVINDER KUMAR
2024.03.05 12:13
I attest to the accuracy and
integrity of this document

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No