



130-CRM-M-27438-2024 (O&M)

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

CRM-M- 27438-2024 (O&M)

Date of decision: 04.12.2024

SUMIT SINGLA

....Petitioner.

Versus

STATE OF HARYANA

....Respondents.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Ishwar Singh, Advocate,
for Mr. Deepam Raghav, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana

.....

SANJIV BERRY, J. (ORAL)

CRM-35982-2024

Keeping in view the averments made in the application,
documents are taken on record as Annexure P-7 subject to all just
exceptions.

2. Registry to tag the same at appropriate place.

3. Disposed of.

Main case

By way of the instant petition, the petitioner has
challenged the impugned order dated 21.12.2023 (Annexure P-6),
passed by learned Additional Chief Judicial Magistrate, Panipat, in case
FIR No. 483 dated 03.04.2023, under Sections, 3,4, 13-A of the Public



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Gambling Act 1867, (for short '*the Act*') (Annexure P-2), whereby an application moved by the petitioner for *superdari* of the mobile phone mentioned therein was dismissed.

2. Notice of motion.

3. On the asking of the Court, Ms. Gaganpreet Kaur, DAG, Haryana, who is present in Court, accepts notice on behalf of the State-respondent, opposing the instant petition by submitting that the mobile phone in question was used for the purpose of online gambling by playing games and, in the instant case, the petitioner after having been arrested, on conclusion of investigation challan was presented in the Court, notice of accusation was served upon the petitioner and the other co-accused, who had pleaded guilty and did not claim trial and as a consequence, vide judgment dated 06.05.2023, passed by learned Additional Chief Judicial Magistrate, Panipat, (Annexure P-3), was convicted and sentenced. She submits that the mobile phone in question, being the case property, used for online gambling was ordered to be disposed of in accordance with the law and it is clarified in the order dated 21.12.2023 (Annexure P-6) that the same being instrument of gaming is required to be destroyed as per Section 8 of the Public Gambling Act. She submits that there is no infirmity in the impugned order and as such prays for dismissal of the petition.

4. After hearing the respective arguments and perusing the record, it transpires that FIR (Annexure P-2) was registered against the



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petitioner and the other co-accused on the allegation of gambling in the hotel by playing online match by putting bids on it. Accordingly, in pursuance to the information, raid was conducted at the given place and 04 persons including the present petitioner were found playing online IPL match by putting cash and some 500 currency notes were lying on the bed; some 500 currency notes were lying under the table and Rs. 31520/- were found there on the bed and Rs. 50,000/- were lying on the table in the corner. Recovery of 10,120/- along with one mobile phone wherein online IPL match was going on was effected from Ashok, Rs. 12370/- along with a mobile phone; make Samsung A-22 was recovered from Ankush; Rs. 2580/- with iphone-13 was recovered from the petitioner and one iphone was recovered from the co-accused, namely Pawan. Besides, recovery of Rs. 1,06,590/-, lying on the bed along with plastic tokens numbered dice and 290 written cards with 02 boxes of playing cards were also effected. After the arrest investigation was conducted and challan was presented in the Court.

5. It is evident from judgment dated 06.05.2023 (Annexure P-3) passed by learned Additional Chief Judicial Magistrate, Panipat, that on the presentation of challan against the present petitioner and other co-accused, they admitted to the notice of accusation given under Sections 3, 4, 13-A of the Public Gambling Act to which they pleaded guilty and did not claim trial and, as a consequence, after hearing them on quantum of sentence, learned Trial Court held them guilty and



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ordered to pay fine of Rs. 500/- each. Besides, it was ordered therein that the case property be dealt with in accordance with the law.

6. Subsequently, the petitioner moved an application for releasing the mobile phone recovered from him which was dismissed vide order dated 21.12.2023 (Annexure P-6) passed by learned Additional Chief Judicial Magistrate, Panipat, and the same has been assailed herein.

7. After considering the respective submissions and perusing the record, it is observed, at the very outset, that there is no infirmity or illegality in the impugned order (*supra*) at all. As stated above, the petitioner along with the other co-accused were found playing online IPL match by way of gambling and, on the raid being conducted, they were apprehended along with cash and respective mobile phones used for playing online match besides plastic token and cards and numbered dice used for playing gambling. After completion of investigation challan was presented in the Court and the petitioner as well as the co-accused did not dispute the recovery of mobile phone and cash used for online gambling and admitted to the notice of accusation to which they pleaded guilty leading to learned Magistrate to pass the judgment and order of sentence dated 06.05.2023 (*supra*) wherein, it was specifically ordered that the case property be dealt with in accordance with law. Admittedly, the mobile phone used by the petitioner was recovered by the police from the spot used for online gambling and taken into



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custody as the case property. While deciding the application, vide impugned order (*supra*) it is categorically mentioned by the learned Magistrate that as the petitioner being a convict had been held guilty and sentenced for having committed the offence under Sections 3, 4, 13-A of the Public Gambling Act and the mobile phone, in question, being the case property, used for the purpose of online gambling as per the provisions of Section 8 of the Act, was ordered to be destroyed. Moreover, as discussed above, the petitioner had not contested the case/challan and had simply pleaded guilty to the accusation without any reservation. As a consequence, no case is made out in favour of the petitioner for return of the said phone which was required to be destroyed under Section 8 of the Act. The perusal of the aforesaid order would reveal that the learned Magistrate has dealt with the same in accordance with the law and has not committed any illegality or infirmity so as to call for any interference by this Court.

8. As a consequence, instant petition stands dismissed.

9. Pending miscellaneous application, if any, also stands dismissed.

(SANJIV BERRY)
JUDGE

04.12.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |