

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50294-2023 (O&M)

Date of Decision: February 07, 2024

DASHRATHPetitioner
Versus
STATE OF HARYANA AND ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Pankaj Nanhera, Advocate,
Mr. Rahul Gautam, Advocate,
Mr. Pradeeep Duitan, Advocate and
Mr. Nitin Verma, Advocate for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, challenge has been laid to the orders dated 09.03.2023 and 28.09.2023 passed by the Courts below whereby the petitioner was held responsible for an intentional violation of the Court order besides issuance of directions against him for registration of the FIR under Section 175, 176, 179 and 180 of IPC.

2. In the present case, in relation to further investigation of FIR No.882 dated 18.12.2018 registered under Sections 120-B, 406, 417, 418, 420, 421, 423, 424, 467, 468 and 506 IPC at Police Station Bhiwani City, the petitioner who happened to be an ASI-cum-Investigating Officer appeared before the Court of learned Chief Judicial Magistrate Bhiwani. While the hearing was going on, an unpleasant situation arose on account of certain unwanted and uncalled for response from the side of the petitioner resulting into passing of the order dated 09.03.2023 with the following observations:-

“Hence Superintendent of Police, Bhiwani is directed to initiate appropriate department proceedings against ASI Dashrath Singh, Belt No.81, City Bhiwani for disobedience of Court order under intimation to this Court. He is recommended to take strict action against said official. He is also desired to send the report of “action taken” by him against the official and also further desired to apprise his officials to obey the Court in letter and spirit.

In view of aforesaid conduct of officer, the Court thinks it appropriate in interest of public justice as well as to ensure Rule of law, to proceed against the I.O. ASI Dashrath, Belt No.81, P.S. City Bhiwani for aforesaid violation of Court order and intentionally omitting to give information about steps taken during further investigation, refusing to answer questions and refusing to sign statement when he is legally required to do so. In opinion of Court, he has prima facie committed offence punishable under Sections 175, 176, 179 and 180 of Indian Penal Code. Reader of this Court is authorized to file appropriate complaint regarding above said offence by ASI Dashrath before Court of Sh. Rakesh Kadian, learned JMJC Bhiwani.

Ahlmad is directed to send one copy of this order to Superintendant of police, Bhiwani immediately for compliance.

Assistant SHO, Police Station City Bhiwani is also present in the Court who has been specifically directed to appoint some other person as Investigation Officer in present case and to direct him to act as per order dated 10.06.2022 strictly.

SHO, Police Station Bhiwani is directed to submit his report about appointment of Investigation Officer in present case on 16.03.2023.”

3. Aggrieved thereof, the petitioner approached the Revisional Court, however, his prayer was rejected by the Court of Addl. Sessions Judge, Bhiwani vide order dated 28.09.2023 thereby upholding the directions issued in terms of the order dated 09.03.2023.

4. By way of the present petition, both the aforementioned orders have been assailed by the petitioner.

5. On 25.01.2024, this Court passed the following order:-

“By way of present petition filed under Section 482 CrPC, prayer has been made for quashing of order dated 28.09.2023 passed by learned Additional Sessions Judge, Bhiwani whereby the order dated 09.03.2023 passed by Court of learned Chief Judicial Magistrate, Bhiwani has been upheld.

At the outset, learned counsel for the petitioner submits that petitioner is ready to appear before the Court below and tender his unconditional apology in writing/by way of an affidavit and if the Court concerned feels satisfied with the same in addition to the remorse shown by the petitioner, learned counsel would accordingly proceed further with the present petition.

At this stage, without going into the merits of the petition, since the record reflects that one of the concerns of the Court below was the indifferent attitude of petitioner/police officer, let the petitioner appear before the Court concerned within one week from today and tender his unconditional apology by way of an affidavit. It would be highly appreciated if the Court concerned takes into consideration the long service of 30 years rendered by the petitioner.

Adjourned to 02.02.2024.”

6. In terms thereof, the petitioner appeared before the Court of learned Addl. Civil Judge, Senior Division, Bhiwani on 29.01.2024 and submitted his affidavit tendering his unconditional apology. Relevant paragraphs of the said affidavit are reproduced hereunder for reference:-

“5. That the deponent has the highest regard and honour for this Hon’ble Court and cannot think to do anything against the spirit and to lower the dignity and esteem of this Hon’ble court.

6. That the deponent is tendering by way of present affidavit, unconditional apology and ensures this Hon’ble Court that he will maintain the majesty and dignity of the Court in future also.

7. That the deponent prays that the present unconditional apology tendered by him may kindly be accepted.

8. That it, is further prayed that the deponent may kindly be exonerated in the light of his unblemished career of 30 years of service and his unconditional apology may kindly be accepted.”

7. In pursuance thereof, having considered the unconditional apology submitted by the petitioner, learned Judicial Officer has passed

the order dated 29.01.2024, thereby accepting the unconditional apology as well as the repentance shown by the petitioner. The order dated 29.01.2024 passed in this regard is reproduced hereunder:-

“File taken up today on appearance of ASI Dashrath. He has tendered a copy of order dated 25.01.2024 as passed by Hon’ble High Court in CRM-M-50294-2023. Same is confirmed by the concerned Ahlmad. ASI Dashrath has tendered affidavit of tendering his unconditional apology in compliance of above said order. With due respect, Hon’ble Court has observed that it would be highly appreciated if the Court concerned takes into consideration the long service of 30 years rendered by the petitioner after tendering apology by way of affidavit by him.

Considering unconditional apology as well as repentance behavior of applicant, his apology is hereby accepted. No other proceedings is pending against him before undersigned. Now, to come upon the date fixed fixed”

8. At this stage, magnanimity shown by the learned Court while accepting the unconditional apology is also deeply appreciated and the learned judge is commended for embodying wisdom and compassion. Such grace fosters healing and reconciliation, setting a noble example of humility and understanding within our judicial system.

9. In view of the aforesaid facts and circumstances, the petitioner having tendered his unconditional sincere apology before the learned Court below, besides, the same having been accepted, no useful purpose is going to be served with the continuation of proceedings against the petitioner. The petitioner already having shown remorse and repentance to the Court concerned with a further assurance not to misbehave in future, no proceeding is required to be continued.

10. Disposed of in the aforesaid terms.

07.02.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No