

2024:PHHC:172420

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

CRM-M-54790-2024

Date of Decision- 06.11.2024

SUSHAM LATA

.....PETITIONER

VERSUS

AMIT PAL AND OTHERS

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aditya Gupta, Advocate and
Mr. Chandan Singh, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. This is a petition filed under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023, for issuance of direction to the Revisional Court to decide the Revision Petition No.CRR-254-2023 dated 06.05.2023 titled “Rajesh Saraf Vs. State of Haryana and ors.” pending before the court of Additional Sessions Judge, Gurugram (Dr.Gagan Geet Kaur) or to vacate the stay order dated 06.05.2023 being extended from time to time and is operating till date.

2. It is contended by the learned counsel for the petitioner that under the garb of stay order dated 06.05.2023, respondents No.1 & 2 are taking benefit of Trust of the petitioner, and in this process have introduced the petitioner to Mr.Rajesh Saraf, respondent No.3 herein, who has provoked the petitioner to invest Money in his Company for safe and healthy investments. The petitioner, under the provocation of respondents No.1 & 2,

has already invested a huge sum of Rs.70,20,000/- (Rs.Seventy lacs Twenty thousand only) in thirteen different transactions, however, no receipt was given by the respondents in regard to these investments. After coming to know about the befooling intentions of respondents, the petitioner started demanding her money back and tried to contact the respondents who then brutally manhandled the petitioner and her husband. Thereafter, the petitioner moved a written complaint to the Commissioner of Police, Gurugram, on 09.06.2022 but no action was taken against any of the respondents by the police and the petitioner, ultimately, filed a complaint under Section 156(3) Cr.P.C. read with Section 200 Cr.P.C., for registration of FIR in the matter and directions were issued by the learned Judicial Magistrate Ist Class, Gurugram, vide order dated 27.04.2023, Annexure P-2, to the SHO concerned to register an FIR and to investigate the matter.

3. It is also contended by the learned counsel for the petitioner that respondent No.3 filed CRM-M-23012-2023 against the order dated 27.04.2023, Annexure P-2, before this Hon'ble Court which was dismissed vide order dated 05.05.2023, observing that a Revision Petition may be preferred before the Court of Session and also directed the Court of Session to decide the prayer for stay of the order dated 27.04.2023. Therefore, CRR-254-2023 was filed by respondent No.3 and the operation of the order dated 27.04.2023 has been stayed by the learned Additional Sessions Judge, Gurugram, vide order dated 06.05.2023, AnnexureP-4.

4. It is further contended by the learned counsel for the petitioner that though the petitioner on appearance in revision petition has filed reply to the same but the stay is being extended and continuing till date, despite the fact that the learned Revisional Court had observed in the order dated

30.10.2023 that last opportunity for arguments granted and in case of failure to do so, the stay granted shall be vacated but neither the matter has been argued by the revisionist nor stay has been vacated by the learned Revisional Court. It is, thus, prayed that necessary directions may be issued to the Revisional Court to conclude the matter at the earliest or the stay may be vacated.

5. Heard learned counsel for the petitioner and case file also perused.

6. The Hon'ble Apex Court in "***Sanjaysinh Ramrao Chavan v. Dattatray Galabrao Phalke as reported in (2015) 3 Supreme Court Cases 123***", observed:

"14. ...Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with decision in exercise of their revisional jurisdiction."

7. After hearing the learned counsel for the petitioner and perusing the case file, this Court is of the considered view that the petitioner has no

case to file the present petition because the petitioner was required to move an application for vacation of stay alongwith reply filed by her to the revision petition, however, there is no averment in the entire petition that any such application was filed by the petitioner alongwith the reply and even thereafter, the matter was not argued by the revisionist after having been granted last opportunity repeatedly from time to time. Therefore, the petitioner cannot now over come her own lapse and mistake by approaching this Court to with a prayer to order vacation of stay in the present petition.

8. Consequently, this Court does not find any reason to interfere or to accept the prayer of the petitioner made in the present petition and, thus, fails.

9. Accordingly, the present petition, having been found to be without any merit, stands dismissed.

06.11.2024

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No