



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

CRM-M-1232-2017 (O&M)

Date of decision : 24.02.2025

State of Punjab

.....Petitioner

Versus

Manpreet Singh @ Mani Gill

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Somesh Arora, Addl. Advocate General, Punjab,
for the petitioner.

Mr. Jasdev Singh Mehndiratta, Advocate,
for the respondent.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. With the consent of learned counsel for the rival parties, this petition. which is on the Regular Board of this Bench, is taken up today for hearing.

2. The present petition filed by the State of Punjab, invoking inherent powers of this Court under Section 482 Cr.P.C., assails the order dated 11.05.2015 (Annexure P-2) passed by Judicial Magistrate Ist Class, Ludhiana, whereby while dealing with application filed by Manpreet Singh @ Mani Gill (respondent herein) under Section 156 (3) Cr.P.C. *inter alia* seeking



a direction for registration of offences punishable under Sections 167, 192, 195, 196, 197, 198, 199, 211, 220, 329, 357, 364-A, 365, 367, 402 read with Section 120-B IPC, the learned Magistrate directed the complainant (respondent herein) to lead preliminary evidence by recording statements of his witnesses.

3. This Court, while taking cognizance of this matter, vide interim order dated 17.01.2017 ordered to defer the proceedings in the aforesaid complaint, wherein the impugned order dated 11.05.2015 was passed and the said interim order continues to hold the field till date.

4. Thereafter, on 17.07.2017, this Court while admitting the present petition and making the interim order absolute *inter alia* recorded thus :-

“(10) We are of the considered view that the Court of Special Judge, Mohali deserves precedence in adjudication of common issues. The allegations which are alien and stranger to NDPS case made by the respondent can be gone into by the Judicial Magistrate at Ludhiana as soon as the trial in NDPS case is over.”

5. The factual matrix, in short, reveals that the respondent had been shown to be arrested on 08.03.2013 in respect of FIR No. 69 dated 08.03.2013 registered at Police Station Mandi Gobindgarh, Fatehgarh Sahib, in respect of offences punishable under Section 21/22/61/85 NDPS Act read with Section 13 of Foreign Exchange Management Act, 1999. Pertinently, the trial which triggered by the said FIR No. 69 ended in conviction on 13.02.2019.

6. The respondent, who was complainant in the proceedings under Section 156 (3) Cr.P.C., objected to the processes of arrest made by the police



functionaries and alleged that the arrest had actually been made on 02.03.2013 and therefore, the allegations were made and registration of FIR in respect of offences punishable under Sections 167, 192, 195, 196, 197, 198, 199, 211, 220, 329, 357, 364-A, 365, 367, 402 read with Section 120-B IPC was sought, by filing application dated 15.04.2015 under Section 156 (3) Cr.P.C., before the Magistrate, which led to passing of the impugned order dated 11.05.2015.

7. Learned counsel for the State of Punjab (petitioner herein) contends that since the respondent has been convicted in FIR No. 69 dated 08.03.2013 under the offences punishable under NDPS Act and since the statements of prosecution witnesses recorded in the said trial under NDPS Act and the allegations in application under Section 156 (3) Cr.P.C. are somewhat overlapping, continuation of the said application under Section 156 (3) Cr.P.C., and passing of the impugned order is bad in the eyes of law.

8. A bare perusal of the impugned order dated 11.05.2015 reveals that the learned Magistrate, to ascertain the veracity and authenticity of the allegations made in application under Section 156 (3) Cr.P.C., asked the complainant (respondent herein) to lead preliminary evidence by summoning his witnesses.

9. Learned counsel for the State of Punjab contends that by doing so, the Magistrate has disclosed his judicial mind, as the very event of recording of preliminary evidence demonstrates exercise of judicial mind which is akin to taking cognizance of the offences alleged in application under Section 156 (3) Cr.P.C.

10. We are unable to agree with learned counsel for the State of Punjab, as the first stage at which judicial mind is applied by the Magistrate to



proceed ahead with the matter is the stage when summons are issued to the accused under Section 204 Cr.P.C., and not at any prior stage. All the prior stages are only for the aid and assistance of the Magistrate to hear arguments, collect evidence, so as to ascertain the *prima facie* veracity and authenticity of the allegations made in the application under Section 156 (3) Cr.P.C. The first stage, at which cognizance of offence alleged in application under Section 156 (3) Cr.P.C. is taken, is after the inquiry conducted under Section 202 Cr.P.C. reveals sufficient ground for proceeding and the application under Section 156 (3) Cr.P.C. is not dismissed under Section 203 Cr.P.C. [Please see : **Manharibhai Muljibhai Kakadia and another Vs. Shaileshbhai Mohanbhai Patel, (2012) 10 SCC 517** and **S.R. Sukumar Vs. S. Sunaad Raghuram, (2015) 9 SCC 609**].

11. Thus, the apprehension expressed by the learned State counsel that if proceedings under Section 156 (3) Cr.P.C. are allowed to proceed, pursuant to the impugned order dated 11.05.2015, then State would be prejudiced in the face of conviction under the NDPS Act suffered by the respondent, is unfounded for the sole reason that allegations and offences found proved under NDPS Act and in the application under Section 156 (3) Cr.P.C. are distinct.

12. In view of the above, no case for interference is made out and the present petition stands dismissed with liberty to the learned Magistrate to proceed pursuant to the order dated 11.05.2015 and conclude the proceedings as expeditiously as possible.

13. This Court hastens to add that any finding recorded in this order is only for the disposal of this petition and shall not prejudice the learned



Magistrate in deciding the application under Section 156 (3) Cr.P.C., in accordance with law. The learned Magistrate is free to take decision either way.

14. All the pending applications stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

February 24, 2025
narotam

(SUMEET GOEL)
JUDGE

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