



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

CRM-M-551-2025 (O&M)
Reserved on : 22.05.2026
Decided on : 05.06.2026

Gagandeep Jindal

..... Petitioner

VERSUS

State of Punjab & Ors.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Rajesh Punj, Advocate for the petitioner.
(joined through video conferencing).

Mr. J.S. Thind, Deputy Advocate General,
Punjab, for the respondents No.1 to 3.

Mr. Vikas Singh, Senior Advocate with
Ms. Anamika Sheoran, Advocate
for the respondent No.4

SURYA PARTAP SINGH, J.

This is petition under Section 528 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023', hereinafter being referred to as 'BNSS' only. By virtue of this petition, the quashing of order dated 13.12.2024 (Annexure P-1), hereinafter being referred to as 'impugned order' only, passed by the Court of learned Judicial Magistrate First Class Ludhiana, hereinafter being referred to as 'trial Court' only, has been challenged.

2. In nut-shell, the facts emerging from record are that one FIR, *i.e.* FIR No.36 dated 31.05.2016, has been lodged in Police Station Jodhan,



District Ludhiana (Rural). The abovementioned FIR has been lodged for the commission of offence punishable under Section 406 of 'the Indian Penal Code, 1860', hereinafter being referred to as 'IPC' only.

3. The abovementioned FIR came into being at the instance of 'District Manager, Punjab State Warehousing Corporation, District Office, Ludhiana', hereinafter being referred to as 'complainant' only. It was reported by the above-named complainant that 'the Punjab State Warehousing Corporation', hereinafter being referred to as 'PSWC' only, is a statutory organization and performs the function of procurement of food-grains including 'Paddy' on behalf of Government of India. According to complainant, as per milling policy of the government, the 'Paddy' purchased by the 'PSWC' from the farmers used to be stored in the premises of the allotted rice mills for custom milling. As per complainant, by following the same policy an agreement dated 22.10.2009 was executed by the Miller, namely 'M/s Mahadev Rice & General Mills', Quila Raipur, District Ludhiana through its partners, namely 'Gagandeep Jindal' and 'Amandeep' on 22.10.2009.

4. The complainant further alleged that as per clause – 6 of the agreement the Miller was fully responsible for the safe custody of Paddy stocks entrusted to the Miller till the delivery of entire rice as per out-turn ratio fixed by the Government of India. It was also alleged by the complainant that as per Clause Nos.12(a) & 12(b) of the agreement the Miller was liable for criminal action in case of misappropriation, theft etc. of the stocks. According to complainant, 330735 bags in the packing of 35 Kgs.



each of 'Paddy' were handed over to the above-mentioned Miller and stored in its premises, but later on a shortage in stock was detected and it was found that the Miller had misappropriated/stole a part of the stocked rice. It was further alleged by the complainant that instead of 13472.50 quintals, the weight of the stock was found to be 11726.158 quintals. Thus, showing the shortage of 1746.35 quintals.

5. It is the case of the prosecution that pursuant to abovementioned FIR, once the investigation was complete, the final report under Section 173 of CrPC was filed by the police in the Court for the purpose of trial.

6. Heard.

7. It has been contended by learned counsel for the petitioner that instant case is the classic example, wherein a liability which is purely a liability of civil nature, has been converted into a criminal case and by sheer misuse of authority the FIR with regard to allegations of misappropriation of stocks has been lodged. According to learned counsel for the petitioner there was an agreement between the complainant and the petitioner's firm, namely 'M/s Mahadev Rice & General Mills', Quilla Riapur, District Ludhiana, and that as per agreement if the shortage of stocks was recorded, the only course available to the 'PSWC' was to recover the price of short stock of rice, but by projecting the shortage of stocks as misappropriation of food-grains, the FIR has been lodged. According to learned counsel for the petitioner the above-mentioned step of the respondent-PSWC is nothing, but sheer abuse of process of law.



8. According to learned counsel for the petitioner another relevant aspect to be taken into consideration is that before registration of FIR an inquiry was conducted by a senior police officer, i.e. Superintendent of Police (I), Ludhiana (Rural) and in his report dated 09.11.2017, the Superintendent of Police (I), Ludhiana (Rural) opined that the dispute between the parties was a dispute of civil nature and no ground for registration of FIR was made out. As per learned counsel for the petitioner the above-mentioned report was submitted to the Senior Superintendent of Police, Ludhiana (Rural), who, without recording his own findings, with regard to the grounds on which the above-mentioned report of the Superintendent of Police (I), Ludhiana (Rural) was not accepted, straightaway issued the directions, to the concerned S.H.O., to register the FIR. According to learned counsel for the petitioner the above-mentioned procedure adopted by the Senior Superintendent of Police, Ludhiana (Rural) was alien to the laid down procedure of law.

9. It has also been contended by learned counsel for the petitioner that once the FIR was lodged and the investigation was in progress, the petition for quashing of FIR was filed by the petitioner by invoking the extraordinary jurisdiction vested in this court, by virtue of Section 528 of BNSS. According to learned counsel for the petitioner, the abovementioned petition, i.e. Criminal Misc. No.M-33859 of 2016 was disposed of by this court while observing that it was premature. According to learned counsel for the petitioner, this Court while disposing of the abovementioned petition, had issued a direction to the respondent/police to take into consideration all



the material facts, documents and statements as mandated under Section 163(2) Cr.P.C.

10. It has further been contended by learned counsel for the petitioner that in compliance with abovesaid order, the Superintendent of Police (I), Ludhiana (Rural) submitted a report dated 09.11.2017 (Annexure P-12), wherein he concluded that no criminal liability against the petitioner was made out. Thus, in his report dated 09.11.2017, Superintendent of Police (I), Ludhiana (Rural) recommended for cancellation of abovementioned FIR. As per learned counsel for the petitioner, at the time of filing of final report under Section 173 CrPC, the abovementioned documents, *i.e.* the report dated 09.11.2017, submitted by the Superintendent of Police (I), Ludhiana (Rural), and the internal reports of Punjab State Warehousing Corporation dated 30.10.2023 & 05.11.2023 (Annexure P-12, P-7 and P-8, respectively), were not made part of the abovementioned report. It has been claimed by the learned counsel for the petitioner that failure of the Investigating Agency to attach the abovementioned documents with the report under Section 173 CrPC is likely to cause a serious prejudice to the right of the defence of petitioner.

11. The learned counsel for the petitioner has further contended that once the copy of challan was supplied to the petitioner, the petitioner filed an application dated 22.09.2021 seeking for a direction to the prosecuting agency to place the investigation report of Superintendent of Police (I), Ludhiana (Rural) dated 09.11.2017 on record, along with entire record



collected during the course of investigation, pursuant to order dated 23.09.2016 passed by this Court.

12. According to learned counsel for the petitioner, in addition to above on 29.09.2023, the petitioner filed another application seeking for permission to place on record the copy of report dated 09.11.2017 submitted by Superintendent of Police (I), Ludhiana (Rural) and the report of Departmental Committee. According to learned counsel for the petitioner, thereafter on 22.08.2024, one more application was filed by the petitioner, under Section 173(8) of CrPC, for a direction to the Investigating Agency to consider the Departmental Committee report submitted during the course of investigation.

13. It has been further contended by learned counsel for the petitioner that against all the abovementioned three applications, reply was filed by the prosecuting agency, wherein it was admitted that the documents, i.e. order 23.09.2016 passed by this Court, the report dated 09.11.2017 submitted by Superintendent of Police (I), Ludhiana (Rural) and the reports of Departmental Committee dated 30.10.2013, 05.11.2013 and 24.11.2013, were collected by the Investigating Officer during the course of investigation.

14. The learned counsel for the petitioner has further contended that the abovementioned documents are necessary for proper adjudication of the case and that in the absence of abovementioned documents, on record, the petitioner is likely to suffer serious prejudice qua his right of defence. As per learned counsel for the petitioner, while ignoring the importance of above-



said documents, the learned trial Court while adopting an erroneous approach, on account of wrong appreciation of fact as well as law, dismissed the abovementioned application vide order dated 13.12.2024. Hence the present petition for quashing of abovementioned order.

15. In support of his arguments, the learned Senior Counsel for the petitioner has referred to the principles of law laid down by the Hon'ble Supreme Court of India in the following cases:-

- i. Suo moto writ titled as to Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials V/s The State of Andhra Pradesh & Ors. 2021(10) SCC 598
- ii. Vinubhai Haribhai Malaviya & Ors. V/s State of Gujarat & Anr., AIR 2019 SC 5233
- iii. Om Parkash Sharma V/s Central Bureau of Investigation, AIR 2000 SC 2335
- iv. Sucha Singh V/s State of Punjab, 2001(1) RCR (Criminal) 788
- v. Kalyani Singh V/s CBI, 2023(3) RCR (Criminal) 535

16. The learned State Counsel as well as learned Senior Counsel for the respondent No.4 have controverted the abovementioned arguments. It has been contended by learned State Counsel that the present petition is nothing, but an abuse of process of law, as without any rhyme or reason, a very well-reasoned and justified order passed by the learned trial Court has been challenged by virtue of present petition. According to learned State Counsel, in the present case one of the most important aspect to be taken into consideration is that the petitioner is facing a trial for the commission of abovementioned offence and during the course of trial, he will be given an



opportunity to produce, whatever, defence evidence he wants to bring on record. As per learned State Counsel, instead of waiting for proper stage and opportunity at the very initial stage of the case, the petitioner is resorting to necessary applications, and that the endeavour of the petitioner is to shift the responsibility upon the prosecution.

17. It has been further contended by learned State Counsel that this is the prerogative of the Investigating Agency to select which evidence it wants to adduce to prove prosecution case against the accused, and the law does not permit the accused to dictate terms to the Investigating Agency and force it to place evidence, on record, as per convenience of accused.

18. In view of above, it has been contended by learned State Counsel that whatever evidence the Investigating Agency wanted to bring on record, to prove charges against the petitioner, it has already been placed on record, and that the petitioner has got no right to ask for the documents, which have not been relied upon by the Investigating Agency, to place the same on record. According to learned State Counsel, if the petitioner is of the opinion that any requisite documents necessary for the decision of trial has not been made part of report under Section 173 CrPC, at appropriate stage, the petitioner shall be at liberty to place the abovementioned documents on record. While defending the impugned order, it has been contended by learned State Counsel that there is no scope for indulgence or interference in the impugned order, and that the present petition being devoid of merits deserves dismissal.

19. The record has been perused carefully.



20. In the present case, if the crux of abovementioned three applications dated 22.09.2021, 29.09.2023 and 22.08.2024 is co-jointly taken into consideration, it transpires that in the first application, the petitioner has sought a direction to the prosecuting agency to place the copy of documents on record, in the second application, the petitioner has sought permission to place the document on record himself and in the third application, he has sought a direction to the Investigating Agency to consider the abovementioned documents. However, all the abovementioned applications have been dismissed by the learned trial Court, vide order impugned in the present petition.

21. As far as the first application dated 22.09.2021 is concerned, the same has been dismissed by the learned trial Court while observing that:-

“After having heard the Ld. Counsel for the accused/applicant as well as Ld. APP for the State, I am of the view that all the application in hand are liable to be dismissed. Because as a matter of record, challan after investigation in the present case has already been presented in the Court against the accused under section 406 of the IPC for the alleged offence having been committed by the accused under the said section of the IPC. The complainant is Punjab State ware housing corporation. There was some agreement for milling of paddy for the crop year in question with accused being the partner of Mahadev rice General Mills, Ludhiana and accused was authorized signatory. It was also alleged against the accused regarding financial loss of Rs.1,18,34,540/- to the complainant PSW due to defalcation of 3503.82 qtls rice stocks. Also on account of non-supply of Miller rice by the accused firm. On the basis of the said alleged allegations as detailed in the



challan. Thereafter investigation was carried out. S.S.P wrote to the D.A. legal for the legal opinion. Then S.S.P, Ludhiana recommended the SHO P.S. Jodhan to registered the case and to investigate the matter. So, on the basis of the same again after investigation challan against the accused was presented in the Court. Ld. Counsel for the applicant referred to the order dated 23.09.2016 passed by Hon'ble Punjab and Haryana High Court passed in CRM-M-33859 of 2016. However, the police has already presented the challan. In the first application filed on 22.09.2021, application has been moved by the applicant accused to direct the prosecution agency to submit the report of S.P.(I) conducted during investigation in pursuance of the said order passed by Hon'ble Punjab and Haryana High Court. But the S.S.P has already directed the S.H.O to register the FIR against the accused as noted above. So, at this stage, when the challan already presented against the accused, then it is matter of evidence as to any offence against the accused made out or not in view of the investigation already conducted by the police. The accused also as per law will be at liberty to lead his defence if advised so at the appropriate stages of the trial. Hence, the said application filed on 22.09.2021 is hereby dismissed.”

22. The second application dated 30.09.2023 has been dismissed by the learned trial Court while observing that:-

“In the second application filed on 30.09.2023, the accused relied upon by placing on record copy of report submitted by S.P.(I) after investigation in pursuance of said orders passed by Hon'ble Punjab and Haryana High Court in CRM-M33859 of 2016 obtained under RTI. In view of my above discussion the accused may at appropriate stages of the case during trial, may as per law prove the said reports and then their impact on the



case will be seen as per law. Because prosecution also required to prove its case as per law on the basis of challan already presented against the accused on the basis of allegations made against the accused. Hence, the application dated 29.09.2023 is also hereby dismissed.”

23. Since the issues involved in the abovementioned two applications are inter-connected, both of them are being dealt with together.

24. With regard to abovementioned issues, the principles of law laid down by the Hon’ble Supreme Court of India in the case of ‘To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials’ (supra) are relevant. In the abovementioned case, the Hon’ble Supreme Court of India has observed that usually at the time of commencement of trial, accused are only furnished with list of documents and statements being relied upon by the prosecution and they are kept in dark about other material, which the police or the prosecution may have in their possession, which may be exculpatory in nature, or absolve or help the accused. Thus, the Hon’ble Supreme Court of India laid down that while furnishing the list of statements, documents and material objects under Sections 207/208 of CrPC, the Magistrate should also ensure that a list of other material (such as statements, or objects/documents issues, but not relied upon) should be furnished to the accused. According to the Hon’ble Supreme Court of India, this will ensure that in case, the accused is of the view that such materials are necessary to be produced for a proper and just trial, she or he may seek appropriate order for their production during the trial.



25. In the case of ‘Vinubhai Haribhai Malaviya’ (supra), the Hon’ble Supreme Court of India has observed that assurance of fair trial is the first imperative of dispensation of justice.

26. In the case of ‘Om Parkash Sharma’ (supra), the Hon’ble Supreme Court of India has observed that at the time of framing of charge, the accused can place material before the learned trial Court, if the material is reliable, which might effect sustainability of the case.

27. If the factual matrix of the present case is analyzed in the light of abovementioned principles of law, it transpires that two reliefs by virtue of abovementioned two applications have been sought by the petitioner. The first application is for a direction to the prosecuting agency to place on record the documents and in the second application, the petitioner has sought permission to place the abovementioned documents on record, himself.

28. If the ratio of principles of law propounded by the Hon’ble Supreme Court of India in the case of ‘To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials’ (supra) is taken into consideration, it transpires that in the light of the right of petitioner to have a free & fair trial, the documents being sought to be placed on record by the petitioner are necessary for proper adjudication of the case. If the abovementioned documents are considered co-jointly with the evidence collected by the Investigating Agency, it may have a serious impact on the outcome of the prosecution. Thus, it is apparent that the abovementioned documents are relevant for taking into consideration.



29. Here this fact cannot be ignored that technicalities of law are handmaid of justice only, and in the name of technicalities, if the paramount goal of criminal justice delivery system, *i.e.* dispensation of justice, is pushed to the backseat, the very purpose of the system is bound to fail. Since in the present case, a senior ranking officer has submitted a report, wherein he opined that no case against the petitioner is made out, it is hereby observed that the abovementioned document is a relevant and material piece of evidence, which should be brought on record during the course of trial. Since the petitioner has got an absolute right of fair trial, the Investigating Agency cannot be allowed to play hide and seek with the Court, during the course of trial, by concealing the documents, which are material and relevant for proper adjudication of the case. Thus, it is hereby observed that the learned trial Court committed an error of judgment when it thwarted the attempt of the petitioner, by virtue of impugned order, to bring the abovementioned relevant documents on record.

30. In view of abovementioned observations, it is hereby observed that the impugned order passed by the learned trial Court with regard to second application, *i.e.* the application, dated 29.09.2023 seeking for placing on record the order dated 23.09.2016 passed by this Court, is not sustainable in the eyes of law and deserves to be set aside. Hence the same is hereby set aside. The learned trial Court is hereby directed to re-consider the matter in the light of observations recorded in the foregoing paragraphs and pass a fresh order on the abovementioned application.



31. In view of abovementioned observations with regard to second application dated 29.09.2023, once the petitioner is permitted to place the documents on record, the application seeking for direction to the prosecuting agency to place the abovementioned documents, *i.e.* the application dated 22.09.2021 would become infructuous. Hence it is hereby observed that there is no need to interfere in the observations/finding recorded by the learned trial Court with regard to first application dated 22.09.2021.

32. As far as the third application dated 22.08.2024 is concerned, the learned trial Court dismissed the abovementioned application by observing that:-

“Through the third application, the accused in view of section 173(8) Cr.PC (now section 193 of the BNSS 2023), accused applicant seeking the direction to be given to the Police to considered the report of S.P.(L) again presented in pursuance of the said orders passed by Hon'ble Punjab and Haryana High Court. However, again challan has already been presented under section 173 of the Cr.PC after investigation. The prosecution/investigation agency has not shown or produced any record obtained by the officer Incharge of the police station after filing the challan under section 173 of the Cr.PC that being so again in my above discussion, no ground is made out to allow the application moved by accused under section 173 (8) of Cr.PC. Because further, it is matter of evidence if the prosecution agency has not complied the directions of orders passed by Hon'ble Punjab and Haryana High Court in CRM-M-33859 of 2016. Even perusal of the file shows that Ld. Predecessor of this Court vide order dated 05.08.2021, had already dismissed an application of the accused for returning the challan of the State to the compliance of order of Hon'ble



High Court for the reasons mentioned therein. Hence, the application in this regard filed on 22.08.2024 is also hereby dismissed and disposed of.”

33. With regard to abovementioned application, it is observed that once the challan has already been filed and the learned trial Court is likely to proceed with the final report submitted by the Investigating Agency, under Section 173 of CrPC, it is hereby held that at this stage the direction to the Investigating Agency to consider the abovementioned documents is not possible. Hence it is hereby observed that with regard to order regarding dismissal of third application, *i.e.* the application dated 22.08.2024 also, there is no scope for indulgence and interference, by invoking extraordinary jurisdiction vested in this Court.

34. Taking into consideration the cumulative effect of all the abovementioned factors, the present petition is hereby ***partly allowed***. The impugned order, passed by the learned trial Court with regard to dismissal of application dated 29.09.2023, is hereby set aside and the learned trial Court is directed to pass fresh order in the light of the observations recorded in the instant order. With regard to applications dated 22.09.2021 and 22.08.2024, the present petition stands dismissed.

35. Pending miscellaneous application(s), if any, shall stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

05.06.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No