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128 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61370-2023

Date of Decision: 12.02.2026

Arun Kumar

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Esh Gupta, Advocate, for the petitioner.

Ms. Ramta Chowdhary, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for quashing of impugned order dated 07.09.2022 (Annexure P-3), wherein learned JMIC, SBS Nagar had taken *suo motu* cognizance and all the proceedings arising out of the same.

2. Brief facts of the case are that on 05.11.2020, the police received a secret information to the effect that the petitioner, Arun Kumar, had stored firecrackers in a godown and was waiting for customers. On receiving the said information, the police conducted a raid at the disclosed premises and recovered various types of firecrackers. The firecrackers, along with the relevant bills, were taken into possession. An FIR was registered and investigation commenced. On completion of the investigation, a challan was presented and charges under Sections 285, 286, and 188 of the IPC were framed against the petitioner. However, while dealing with the matter, the learned Magistrate, vide impugned order dated 07.09.2022, took *suo motu* cognizance and returned the challan with directions to the concerned SHO to conduct further investigation and to

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book the petitioner under all relevant provisions of law. Aggrieved by the said order, the petitioner has approached this Court.

3. Learned counsel for the petitioner has submitted that learned JMIC, SBS Nagar not only took cognizance directing the SHO concerned for further investigation, but has directed to book the accused under all the provisions, which is beyond his jurisdiction. He submits that in compliance of the order dated 07.09.2022, vide GD No.24 dated 06.11.2023 Section 9B of the Explosive Act was added in the FIR. It is further submitted that the brother of the petitioner is a valid licence holder for possession and sale of manufactured fireworks, and therefore, no offence as alleged is made out against the petitioner. He also argues that learned Magistrate has no authority to pass any *suo motu* order directing further investigation under Section 173(8) Cr.P.C., and such directions are unsustainable in law. He, thus, submits that in the overall facts and circumstances, the impugned order dated 07.09.2022 alongwith all the subsequent proceedings including the GD, deserve to be set aside.

4. Learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that after presenting the challan, learned trial Court took *suo motu* cognizance vide order dated 07.09.2022 and returned the challan to the concerned SHO for further investigation and to book the petitioner under all the relevant provisions. In compliance of the same, vide GD No.24 dated 06.11.2023, Section 9B of the explosive Act was added in the FIR. She further submits that fresh challan is yet to be presented as the proceedings before the trial Court have been directed to be stayed by this Court.

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5. I have heard learned counsel for the parties and have gone through the record with their able assistance. It is not in dispute that after presentation of the challan, learned Magistrate, vide order dated 07.09.2022, returned the same to the concerned SHO with a direction to conduct further investigation and to book the petitioner under all relevant provisions of law. In compliance thereof, vide GD No. 24 dated 06.11.2023, Section 9B of the Explosives Act was added in the FIR. A perusal of the impugned order reveals that the direction for further investigation does not call for interference, however, the subsequent action taken vide GD No. 24 dated 06.11.2023, adding Section 9B of the Explosives Act, cannot be sustained, as the provision appears to have been invoked mechanically pursuant to the Court's direction, without independent application of mind by the investigating agency. Hence, this Court is of the considered opinion that the order dated 07.09.2022 to the extent of directing for booking the accused under all the provisions is unsustainable in the eyes of law and the same is set aside to that extent only. However, the direction to the Investigating Agency for further investigation would survive as per order dated 07.09.2022.

6. Accordingly, GD No. 24 dated 06.11.2023, whereby Section 9B of the Explosives Act was added in the FIR, is hereby quashed. However, the direction for further investigation, as issued by learned Magistrate, is upheld. The investigating agency shall be at liberty to conduct further investigation in accordance with law and on the basis of material collected, to proceed strictly in accordance with law without being



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influenced by any observation made herein. Further investigation be concluded expeditiously preferably within a period of two months from the date of receipt of copy of this order.

7. The petition stands disposed of in the above terms.

(RAJESH BHARDWAJ)
JUDGE

12.02.2026
sharmila

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No