

115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7964-2024

KULDEEPAK MITTAL

....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

Present: Mr. R.K. Jaswal, Advocate
for the petitioner.

Mr. ADS Sukhija, Addl. A.G., Punjab.

Mr. P.S. Hundal, Sr. Advocate with
Mr. J.S. Dhaliwal, Advocate
Mr. G.S. Hundal, Advocate,
Mr. Ankush Chauhan, Advocate,
Mr. Robindeep Singh and Mr. Jasjeet Brar, Advocates
for respondent No.5.

Today at the commencement of proceedings in continuation of the previous order dated 28.08.2024, Mr. Jarnail Singh Bajwa-respondent No.4 has been produced by the State in Court.

Respondent No.4- Jarnail Singh Bajwa has rendered apology for not appearing on earlier occasions before this Court and has thus violated orders dated 05.08.2024, 13.08.2024, 22.08.2024 as well as on 27.08.2024. He has sought 15 days time to file reply to the show cause notice as to why the contempt proceedings be not initiated which was issued vide order dated 05.08.2024.

At this stage, Mr. P.S. Hundal, Sr. Advocate sought liberty to address this Court and asserted that the present petition has been rendered infructuous in the light of the fact that the two prayers made therein have been addressed and thereby this petition do not survive. He supports his

argument laying stress to the effect that respondent No.4 has already been arrested and as such this petition goes while referring to an order passed in CRM-M-48259-2021 titled as “*Rahul Dureja and another versus State of Punjab*”, 2022(2) RCR (Criminal) 686 to argue that once an accused in FIR under Section 174-A IPC is arrested, the effect of declaring the accused persons as proclaimed offender would dissipate and ground for registration of FIR under Section 174-A IPC would no longer exist, therefore, continuation of the proceedings in the instant petition would be an abuse of process of law if continued further. Accordingly, he prays for dismissal of the instant petition as having been rendered infructuous.

Mr. Hundal, Sr. Advocate further clarifies that he is only representing respondent No.4 in the present petition and not respondents No.5 and 6.

He has also questioned the conduct of the respondent-State in arrest of respondent No.4 and sought specific reply that it should be clarified about the case in which he has been arrested.

He concludes his submissions stating that as far as action under the Contempt of Court's Act, 1971, initiated vide order dated 05.08.2024 by this Court, is concerned, is a matter between the Court and the contemner and as of now he has no instructions to appear for that proceeding.

Mr. Sukhija, learned Additional, A.G., Punjab duly assisted by Mr. Deepak Pareekh, SSP, Mohali at the outset would clarify that respondent No.4 has not been arrested in FIR No.215, dated 27.09.2023 (Annexure P-5), registered under Section 174-A IPC, registered at Police Station Kharar, District SAS Nagar, Mohali being fully cautious of the fact that the Hon'ble Apex Court vide its order dated 28.08.2024 has stayed the arrest of

respondent No.4 though with the rider that he should cooperate with the investigation. He further clarifies that he has not yet joined the investigation even in pursuance to the orders passed by the Hon'ble Apex Court.

To the question raised by Mr. Hundal, Sr. Advocate that State should give details as to in which case he has been arrested except FIR No.215, dated 27.09.2023 (Annexure P-5), learned State counsel seeks one week time to file comprehensive detail of all the FIRs wherein he was required to be taken into custody as investigation in almost 39 FIRs is still pending against him with different police stations and also the fact that in which case he has been arrested on 29.08.2024.

Mr. Sukhija, Addl. A.G., Punjab also informs the Court that respondent No.5 has also been arrested on 29.08.2024 whereas respondent No.6 is not yet traceable and all sincere efforts are being made to nab him.

Though this Court ask the State and will still force the State to take action in all the pending FIRs so that the investigation, which is being delayed for the last more than 5-6 years, as is evident from information provided by the State through affidavit dated 28.08.2024 furnished by the Director General of Police, Punjab, is concluded expeditiously, however, the manner in which the investigation is to be conducted is the sole wisdom of the investigating agency but as a guardian of the Constitution, the Court will monitor the action taken ensuring that it is completed at the earliest without any further delay, as is evident from record furnished before this Court on various dates in the form of affidavit furnished by the Senior police officials of the State, wherefrom it could be easily inferred that there is already inordinate delay in the proceedings at its end in almost all the cases.

As far as submissions made by Mr. Hundal, learned Senior counsel for respondent No.4 to the effect that instant petition has been rendered infructuous, does not carry any weight in the light of the fact that neither the proceedings under Section 82 Cr.P.C. are under challenge nor this Court is seized of such proceedings but it is also a fact, as admitted by Mr. Hundal, on a query put by this Court that respondent No.4 has not yet appeared/surrendered before the trial Court in the case in which he was declared proclaimed person vide order dated 04.07.2022 (Annexure P-3) in a complaint case and FIR No.215, dated 27.09.2023, under Section 174-A IPC has been registered at Police Station Kharar, SAS Nagar. Moreover, the prayer made in the present petition is not only limited to respondent No.4 but qua against all the private respondents No.5 and 6 and according to Mr. ADS Sukhija, Addl. AG, Punjab, respondent No.6 is still at large, therefore, time has been sought by him to apprise the Court about the action taken and completion of investigation by another two weeks’.

As far as the judgment relied upon by Mr. Hundal, in the case of Rahul Dureja (supra), is concerned, it do not applies to the facts and circumstances of the present case, since respondent No.4 has not been arrested in this FIR and he has not joined the trial proceedings by putting his appearance before it, therefore, the question of disposing off the petition, as having been rendered infructuous does not arise at all. Hence, the said prayer is declined.

On the asking of the Court that the details of moveable and immovable properties possessed by respondent No.4 in compliance of the earlier order dated 28.08.2024 passed by this Court, he prays for two weeks’

time to do the needful including to file reply to the show cause notice issued under the Contempt of Courts Act,1971.

In the light of time sought by respondent-State qua further apprising the Court on the steps taken in the investigation and by respondent No.4 in the matter, hearing of the case is deferred for 17.09.2024.

It is, however, made clear that in case respondent No.4 requires any legal assistance, he will be at liberty to seek such assistance by making necessary application before the competent authority.

On a query put to Mr. Hundal, he submits that he is appearing in this petition only on behalf of respondent No.4. Further, another query was put forth to Mr. Navjot by this Court, who was earlier representing respondents No.4 to 6, he submits that he has already withdrawn his power of attorney on behalf of all the private respondents. Though there is no representation on behalf of respondents No.5 and 6.

30.08.2024*Poonam Negi***(SANDEEP MOUDGIL)****JUDGE**