

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

CRM No.M- 41416 of 2013(O&M)

Date of Decision: January 30, 2015.

CCS Computers Private Limited

..... PETITIONER (s)

Versus

State of Haryana

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sanjeev Patiyal, Advocate
for the petitioner.

Mr. P.S.Sullar, Addl.A.G., Haryana.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This petition has been filed for quashing of order dated 26.02.2013 passed by the learned Additional Sessions Judge, Gurgaon (Annexure P7) as well as order dated 14.07.2012 passed by the learned Judicial Magistrate First Class, Gurgaon (Annexure P6) on an application moved by the petitioner under Sections 453/457 Cr.P.C. (Annexure P5).

Brief facts of the case are that, three persons, namely, Jitender,

Mukesh and Vijay are facing trial for allegedly committing the offences

punishable under Sections 420/467/468/471/120B IPC. FIR No.111 dated 07.05.2010 was registered at police station Sector 10, Gurgaon for the aforesaid offences on a complaint submitted by Senior Manager, Canara Bank, Gurgaon on the allegations that the accused Vijay Kumar had opened a current account in the name of M/s S.K.Trading Company in the month of March, 2010. A credit of ₹28,00,000/- was received in the account on 23.04.2010. Thereafter, four cheques were received in the Bank on 27.04.2010 in the amount of ₹26,00,000/- for clearing. This raised suspicion and on inquiry it was found that there was no firm in the name of M/s S.K.Trading Company. The cheques were returned and the account blocked. Other documents were also found to be fabricated. During the pendency of trial, an application was moved by the present petitioner, CCS Computers Private Limited under Sections 453/457 Cr.P.C. (Annexure P8) praying for withdrawal of ₹28,00,000/- on the ground that this amount had been paid by the petitioner to the accused. This application was dismissed on 14.10.2011 (Annexure P9). Revision petition preferred by the petitioner against this order was dismissed as withdrawn on 23.11.2011 (Annexure P10). Thereafter, another application was moved under Sections 453/457 Cr.P.C. on behalf of the petitioner praying for release of the said amount of ₹28,00,000/- on the same ground (Annexure P5). This application has been dismissed by the learned trial court on 14.07.2012 (Annexure P6). Revision petition preferred by the petitioner also stands dismissed by the learned Additional Sessions Judge, Gurgaon vide impugned order dated 26.02.2013 (Annexure P7). Hence aggrieved, petitioner has approached this Court.

Learned counsel for the petitioner contends that sum of

₹28,00,000/- indeed belongs to the petitioner. The cheque number in question has been mentioned in the final report presented under Section 173 Cr.P.C. Furthermore, second application is maintainable as it has been moved after the filing of Challan/report under Section 173 Cr.P.C. as the inquiry stood completed.

I have heard learned counsel for the petitioner and gone through the file of this case.

Learned counsel for the petitioner had been afforded a number of opportunities to address arguments and place on record documents considered necessary by him for the just and proper adjudication of this case. Annexure P8 to P10 were placed on record. On a specific direction of this Court on 10.03.2014, statement made by the petitioner before the learned Sessions Judge, Gurgaon for withdrawing the revision filed by him against order dated 14.10.2011 (Annexure P9), has been placed on record as Annexure P11. The said statement reads as under:-

“Statement of Sh. Rahul Yadav, Advocate, Revisionist.

It is stated that, I do not want to proceed with the present Revision Petition the same may be consigned to office.”

On a pointed query, learned counsel for the petitioner fairly admits that Challan/report under Section 173 Cr.P.C. was submitted on 25/29.07.2010. Therefore, the argument that the second application had been moved after the filing of report under Section 173 Cr.P.C. is factually incorrect and misconceived. Whether sum of ₹28,00,000/- belongs to the petitioner or anybody else cannot be decided at this stage. It has been rightly held that the

question of entitlement of the said amount would be decided at an appropriate stage. The said amount is lying with the Bank who is the complainant in this case and is earning interest. The same would be handed over to the person found entitled at the appropriate stage. There is no infirmity or irregularity in the impugned orders warranting interference by this Court in exercise of its jurisdiction under Section 482 Cr.P.C.

Keeping in view the above, no ground is made out for interference by this Court in the impugned orders.

Petition is accordingly dismissed.

None of the observations made hereinabove shall be construed to be a reflection on merits of the case and shall have no bearing on trial.

January 30, 2015.
'om'

(LISA GILL)
JUDGE