

COCP-2481-2013 (O&M)

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

**COCP-2481-2013 (O&M).
Decided on: October 25, 2013.**

Jagjit Singh

..... Petitioner

Versus

Ram Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Ramdeep Partap Singh, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

Petitioner is an accused in FIR No.351 of 2008 under Sections 406 & 420 IPC etc., registered at Police Station, Division No.4, District Jalandhar. He has filed a misc. application under Section 482 Cr.P.C. for directing the State authorities to constitute Special Investigation Team for conducting fair and impartial investigation/enquiry in the said FIR. The matter came up before a coordinate Bench of this Court on 23.8.2013 wherein notice of motion was issued to the respondents and presentation of challan against the petitioner was ordered to be stayed.

Through the present contempt petition, the petitioner has expressed grievance that order dated 23.8.2013 passed by this Court has been disobeyed as the challan was presented against the petitioner and others on 31.8.2013 in the Court of Mr.HarpalSingh, PCS, the Judicial Magistrate First Class,

COCP-2481-2013 (O&M)

Jalandhar. A photocopy of the order dated 20.9.2013, passed by the Magistrate indicates that the order dated 23.8.2012 was brought to the notice of the Court by one Sh.B.S.Lalli, Advocate. It is not apparent whether said Advocate appears for the petitioner or on behalf of other accused. However, counsel for the petitioner submits that he is counsel for Jagjit Singh petitioner. The order dated 20.9.2013 indicates that in view of the challan having already been presented on 31.8.2013, the Court formed an opinion that in view of order dated 23.8.2013, passed by this Court the said Court cannot proceed further. A copy of the notice signed by the same Magistrate dated 21.9.2013, against the petitioner and Lakhwinder Singh for 4.10.2013, has been placed on record indicating that the learned Magistrate did not appreciate the fact that presentation of challan against Jagjit Singh petitioner only had been stayed and after order dated 20.9.2013 passed by the said Magistrate it was not required of the Magistrate to issue notice to the petitioner on 21.9.2013.

Counsel for the petitioner claims that order dated 23.8.2013 has been violated by the Investigating Officer by presenting challan against the petitioner.

At this stage, Mr.M.C.Berry, Addl. A.G., Punjab, assisted by Inspector Subhash Chand, has intervened and produced the communication received from the office of District and Sessions Judge, Jalandhar dated 2.9.2013 on 5.9.2013 in the office of Assistant Commissioner of Police, Central, Jalandhar informing

COCP-2481-2013 (O&M)

about the interim order which was accompanied by petition of Crl. Misc.No.27680-2013. The said order was received on 11.9.2013 in the Police Station, Navi Baradari, Jalandhar.

I have considered the facts and circumstances of the present case. Order dated 23.8.2013 staying the presentation of challan was communicated to the concerned authorities after 2.9.2013 whereas the challan stood presented on 31.8.2013 in the Court of Illaqua Magistrate. The Illaqua Magistrate though had rightly opted to defer the proceedings against the petitioner vide order dated 20.9.2013 but he committed an error in issuing notice by signing notice dated 21.9.2013. It has been assured by Inspector Subhash Chand, Station House Officer (SHO), Police Station, Division No.4, Navi Baradari, Jalandhar that the order passed by this Court dated 23.8.2013, will be complied with in letter and spirit and action against the petitioner will be taken only in accordance with directions of the Court and in accordance with procedure of law. Though the challan has been presented before communication of order dated 23.8.2013, but proceedings against the petitioner will not be taken pursuant to the presentation of challan.

In view of above said circumstances, I do not find any ground to initiate the contempt proceedings against the respondents. A copy of the order be sent to the Illaqua Magistrate to proceed in accordance with law taking into consideration the spirit of order dated 23.8.2013.

COCP-2481-2013 (O&M)

This order will not, in any manner, prejudice the rights of the prosecution agency to seek the modification of order dated 23.8.2013 and proceed against the co-accused of the petitioner as per procedure of law. The petitioner will, however, be entitled to avail other legal remedies available to him including remedy under Section 438 Cr.P.C.

Disposed of.

October 25, 2013.
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(M.M.S. BEDI)
JUDGE