

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. \_\_\_\_\_ OF 2024  
(@ SPECIAL LEAVE PETITION (CRIMINAL) NO.3405 OF 2023)

UNION TERRITORY OF CHANDIGARH . . . . .APPELLANT

Vs.

MOHIT DHAWAN . . . . .RESPONDENT

O R D E R

1. Leave granted.
2. The order impugned before this Court is dated 03.03.2023 and was passed by a learned Single Judge of the Punjab and Haryana High Court.
3. There were certain allegations made against the respondent (who is a dentist based in Chandigarh), by foreign nationals who were his patients and were on a so called 'medical tour' to India. These foreign nationals/patients alleged that the respondent charged excess fee for the treatment and expenses and also pointed out several anomalies in the treatment itself. Consequently, the following First Information Reports (hereinafter referred to as 'FIR') were registered against the sole respondent:

(I) FIR No.76/2018 under Sections 420, 467, 468 and 471 of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC');

(II) FIR No.75/2020 under Sections 419, 429 and 120-B of the IPC and Section 66D of the Information Technology Act, 2000, and;

(III) FIR No.56/2021 under Sections 419, 420, 467, 468 and 471 of the IPC.

4. The respondent has been granted anticipatory bail in FIR No.76/2018 and has also secured regular bail in FIR No.56/2021. In his anticipatory bail application in FIR No.75/2020, the High Court had granted him interim protection, when other applications filed by the respondent also came to be tagged with CRM-M-2046-2021. These subsequent applications, *inter alia*, sought enquiry by a senior police officer on the allegation(s) that certain police officials had abducted him during investigation and had also tampered with the evidence, and had invaded the privacy of the respondent, etc.
  
5. While granting relief to the respondent, the High Court *vide* the Impugned Order has directed a Special Investigation Team to be set up by the Director-General of Police, Punjab to look into the entirety of the

matter. The High Court, further, directed an FIR to be registered against the police officials. The same is reproduced below in-part:

*'Accordingly, in the facts of the present case, being an Independent and impartial authority, DGP, Punjab is requested to constitute a SIT within a period of one week from today, headed by an officer not below the rank of SSP, assisted by some technical experts in telecom domain, to investigate in the matter and submit its final report to the Court concerned. The Registry to inform DGP, Punjab, regarding the aforesaid directions, immediately.*

*It is further requested that SIT (to be constituted) shall make sincere efforts to get the data preserved as ordered by this Court on 17.02.2022 and 05.01.2023.*

*At this stage, it has been pointed out by learned Senior Standing counsel, UT Chandigarh that on the aforesaid compliant dated 03.02.2022 sent by the petitioner to the Illaqa Magistrate from jail, based on the statement made by petitioner, the JMIC, Chandigarh, vide order dated 18.01 2023 has issued directions for treating the same as a petition under Section 156(3) Cr P.C followed by another order dated 15.02.2023 whereby report has been called from the concerned Police Station.*

*Faced with the submlsslons and counter-submissions by both the parties, this Court requested the Registry to summon for the original record of the proceedings pending before the Court of learned JMIC, Chandigarh through special messenger and the matter was again taken up at 4.30 p.m. on receipt of the records.*

*Having heard both the parties, though I find that the pendency of proceedings before the JMIC were required to be brought to the notice of this Court, however, upon perusal of all the orders passed by JMIC, Chandigarh as well as in view of the facts of the case as discussed earlier and to meet the ends of justice, investigation by an independent agency not under the control of UT police is necessary. As there are direct allegations*

*against the local police officers/ officials, to pass such an order is beyond the purview of learned Trial Court under Section 156 (3) Cr.P. C. and therefore, direction regarding the constitution of SIT as specified above holds good, as the technicalities are to pave way for the substantial justice.'*

6. We have been taken through the entire facts of the case by Mr. K.M. Nataraj, learned A.S.G., appearing on behalf of the appellant-Union Territory of Chandigarh. He has submitted that the respondent, who has 3 FIRs (*supra*) registered against him, wherein he has been charge-sheeted by the Chandigarh Police, is now levelling allegations of kidnapping and abduction against the Investigating Officer and the officials who were cited as witnesses in the charge-sheets. It was contended that the respondent never sought registration of an FIR from the High Court in this case and the High Court has exceeded its jurisdiction. It was stated that the High Court thus went far beyond the pleadings in the matter while passing the impugned order.

7. By Order dated 17.03.2023, this Court had issued certain directions which are as under:

*'Issue notice on the special leave petition as well as on the application for impleadment.*

*Mr. Prashant Bhushan, learned Advocate on Record accepts notice on behalf of the respondent. Hence service of formal notice is dispensed with.*

*Objection, if any, be filed within two weeks. Rejoinder affidavit, if any, be filed within two weeks thereafter.*

*In the meantime, the matter shall not be precipitated pursuant to the directions of the High Court through the impugned order.*

*Further the petitioner is directed to retain and preserve the call details, CCTV footage and all electronic records existing as on today.*

*List the matter after five weeks.'*

8. This Court has also been apprised of the fact that the respondent had earlier approached this Court by way of S.L.P.(Crl.) No.3548/2021, wherein he had levelled allegations against senior police officials, an Additional Public Prosecutor and others. The SLP was dismissed on 20.02.2024<sup>1</sup> by a Bench presided over by one of us (Sudhanshu Dhulia, J.). It has been contended by the appellant that the respondent is in a habit of levelling false and frivolous allegations against police officials and lawyers appearing for the Union Territory/police, although the respondent would deny the same.
  
9. We have also heard Mr. Gopal Sankaranarayanan, learned senior counsel, appearing for the respondent who has rebutted all the allegation of the appellant and would

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<sup>1</sup> The said Order reads as under:  
*'Heard learned counsel for the parties.  
No ground for interference is made out to exercise our jurisdiction under Article 136 of the Constitution of India.  
The Special Leave Petition is dismissed.  
Pending application(s), if any, stand(s) disposed of.'*

submit that this is indeed a case where grave irregularities have been done by the Police and the fundamental rights of the respondent under Article 21 have been *inter alia* violated. He has countered the submissions advanced by the learned A.S.G.

10. After hearing the rival submissions at the Bar, we are of the opinion that although this matter springs from a complaint at the hands of the foreign nationals who were at one time patients of the respondent but thereafter it may have taken a course in utter violation of the Constitution and the laws and therefore an independent investigation is indeed required to clear all doubts as to the allegations as they relate to personal liberty of a citizen. To that extent, we are not inclined to interfere with the Impugned Order. All the same, Mr. Nataraj, learned A.S.G., submits that if at all an independent investigation is required then an enquiry in the matter may be entrusted to the Central Bureau of Investigation (hereinafter referred to as the 'CBI').

11. The suggestion seems to be fair and Mr. Gopal Sankaranarayanan has no objection to it.

12. Accordingly, it is directed that the CBI shall conduct the Preliminary Enquiry as directed by High Court on the basis of the facts mentioned in the complaint dated 03.02.2022 given by the respondent, annexed to his Counter-Affidavit (Annexure R-1). To ensure that there is no roving enquiry, it is made clear that such preliminary enquiry shall be restricted strictly in terms of the version of the respondent in his complaint dated 03.02.2022. The Enquiry will also find out:

- (a) Whether the respondent was detained/arrested by the Chandigarh Police in FIR No.56/2021 dated 06.10.2021 lodged at Police Station Sector 19, Chandigarh and produced before the local Magistrate within 24 hours of his detention/arrest?
  
- (b) Whether the detention/arrest of the respondent (accused) by the police officials in FIR No.56/2021 amounts to abduction?

Having made the above observations now nothing survives in the said petition and no further monitoring by the High Court is warranted. As such, we hereby close CRM-M-2046-2021 and its connected cases/applications on the

file of the High Court. Registry to intimate the High Court in this behalf forthwith. The respondent, however, will continue to remain on bail during the period of trial.

13. We may also point out that the enquiry or the Preliminary Enquiry as it is called in CBI, will not be prejudiced by any findings/observations recorded by the learned Single Judge in the Impugned Order.
14. The CBI, after conducting the Enquiry as above, shall proceed in accordance with law.
15. The entire records, including the material referred to in the Order dated 17.03.2023, be handed over to the CBI.
16. We make it clear that the present order has been passed in the facts of the instant case, keeping all questions of law open.
17. The appeal is disposed of accordingly. Pending applications stand consigned to records.



.....J  
(SUDHANSHU DHULIA)

.....J.  
(AHSANUDDIN AMANULLAH)

New Delhi;  
August 06, 2024.

ITEM NO.29

COURT NO.16

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petitions for Special Leave to Appeal (Crl.) Nos. 3405/2023

(Arising out of impugned final judgment and order dated 03-03-2023 in CRMM No. 2046/2021 passed by the High Court of Punjab & Haryana at Chandigarh)

UNION TERRITORY OF CHANDIGARH

Petitioner(s)

VERSUS

MOHIT DHAWAN

Respondent(s)

(IA No. 123857/2023 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 52957/2023 - EXEMPTION FROM FILING O.T.  
IA No. 123855/2023 - INTERVENTION/IMPLEADMENT  
IA No. 52958/2023 - INTERVENTION/IMPLEADMENT  
IA No. 54949/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/  
FACTS/ANNEXURES  
IA No. 52956/2023 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 06-08-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSHU DHULIA  
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s) Mr. K.M. Nataraj, A.S.G.  
Mr. Kanu Agrawal, Adv.  
Mr. Sharath Nambiar, Adv.  
Mr. Bhuvan Kapoor, Adv.  
Mr. Akshay Nain, Adv.  
Mr. Madhav Sinhal, Adv.  
Mr. Shreekant Neelappa Terdal, AOR

For Respondent(s) Mr. Gopal Sankaranarayanan, Sr. Adv.  
Ms. Puja Chopra, Adv.  
Mr. Apoorv Shukla, AOR  
Ms. Ishita Farsaiya, Adv.  
Mr. Puneet Chahar, Adv.

Ms. Prabhleen A. Shukla, Adv.  
Mr. Madhav Gupta, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is disposed of in terms of signed order.

Pending applications stand consigned to records.

(NEETA SAPRA)  
COURT MASTER (SH)

(RENU BALA GAMBHIR)  
COURT MASTER (NSH)

(Signed order is placed on the file)