* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: 30th March, 2022**
Pronounced on: 10th June, 2022

\+ W.P.(CRL) 611/2022

KULVINDER SINGH KOHLI ..... Petitioner

Through: Mr. Vikas Pahwa, Sr. Advocate with Mr. Kapil Midha and Ms. Versha Singh, Advocates

versus

STATE OF NCT OF DELHI & ORS ..... Respondent

Through: Mr. Rajesh Mahajan, ASC for State.
Mr. Aadil Singh Boparai, AAG for R-2/State of Punjab with Mr. Gurlabh Singh and Mr. Tushar Agarwal, Advocates.

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. The instant criminal writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, (hereinafter "Cr.P.C.") has been filed on behalf of the petitioner for issuance of writ, order or direction to quash the summons dated 25th January, 2022, 25th February, 2022 and 9th March, 2022, issued by Deputy Captain Police, Cyber Crime, Phase-8, District Sahibzada Ajit

Singh (S.A.S.) Nagar in investigation of Application No./10059/S/SSP dated 21st December, 2021.

2. The petitioner is an Advocate, running his law firm, K.S. Kohli & Associates, and is also the Founder and Non-Executive Chairman of Frankfinn Aviation Services Pvt. Ltd. The petitioner received summons from the concerned aforesaid authority, Deputy Captain Police/respondent no. 3, on three occasions, in connection with complaint made by one Rajbikramdeep Singh and his son Munjanpreet Singh. The complaint, as appended with the petition, contains allegations against the petitioner and one Harvansjit Singh, for offences under Section 153A/501/504/505/295A/506 of the Indian Penal Code, 1860 (hereinafter "IPC") and Section 67 of the Information Technology Act, 2000 (hereinafter "IT Act").

3. On 25th January, 2022, the petitioner received summons regarding application dated 21st November, 2021, which read as under:-

> *"Please note that, you, the below mentioned person/persons are hereby given second opportunity, in connection with the investigation of aforesaid application, to appear personally in the office of Dy. Captain, Police Cyber Crime, Phase-8, District S.A.S. Nagar, along with all your documents and witness(es) on 28-01-2022 at 10.30 AM, to enquire you regarding your involvement in the aforesaid matter, complete the investigation and get resolved the aforesaid application. Treat this as most important."*

4. The true translated and typed contents of the summons dated 25th February, 2022 are reproduced hereunder:-

> *"You, the following person/persons are hereby*

> *given a second opportunity to note that in connection with the investigation of the aforesaid application you are required to appear in the office of the Deputy Captain of Police (Cyber Crime) Phase 8 at District SAS Nagar along with your witnesses and relevant documents on 7-03-2022 at around 11:00 AM so that you can be included in the investigation and interrogated so that the investigation of the application can be completed. This should be considered very important."*

5. On 9th March, 2022, the petitioner received third summons/notice from the concerned authority and the same read as under:-

> *"You, Kulvinder Singh Kohli s/o Sri Harbans Singh Kohli, House No. 651, Sector 15, Part 01, Pin Code 122001, Gurugram, Haryana, vide Notice bearing no. 31, dated 25-02-2022 of this office, was given the time for 07-03-2022 for participating in the investigation of the aforesaid application but you did not come & appear in the aforesaid application's investigation, instead you sent a written message via WhatsApp asking a copy of the subject application under investigation. In this regard you are hereby informed that under the law, if you need the application, either you can read the same after participating in the investigation or you can apply for a copy thereof through proper channel permissible under law. Thus you are hereby given the last opportunity to appear in this office on 13-03-2022 and place your submissions. In case of non-appearance, the application will be decided on Ex-Party basis and the proceedings will be initiated as required relating to the application."*

6. The petitioner is before this Court assailing all the three summons/notices issued to him under Section 160 of the Cr.P.C.

7. Mr. Vikas Pahwa, learned senior counsel for the petitioner submitted that the summons dated 25th January, 2022, was the first correspondence received by him from the concerned authority and there was no other communication received by him prior to it, however, as per the contents of the said summons it was a second opportunity granted to the petitioner to appear physically. The petitioner, vide his reply dated 27th January, 2022, intimated the concerned authority that neither had he received the first notice/summons nor did the summons contained any copy of the application with respect to which the summons were issued. The petitioner requested the respondent no.3 to provide him with a copy of the application, however, instead of providing the copy of the application/complaint the respondent no. 3 sent the second summons to the petitioner despite the petitioner's assurance of rending full cooperation in the inquiry.

8. It is submitted that the petitioner, in his reply to the summons, stated his inability to appear since he is almost 60 years of age having chronic heart disease, his mother is 86 years of age and is suffering from various ailments and has low immunity and the wife of his brother has also been undergoing treatment for kidney issue and thus, has extremely low immunity. The petitioner, in light of the Covid-19 pandemic and in the background of ailment to him and his family, showed his willingness to respond and address to the queries of the respondent no. 3 through video conferencing at any time and date as fixed by the respondent no. 3, however, despite all of this the respondent no. 3 issued the subsequent

summons to the petitioner. The summons received by the petitioner categorically stated that if the petitioner requires so, he may either participate in the investigation to know the contents of the application or apply through the proper channel for a copy of the same. The petitioner, thereafter, filed for an RTI seeking copy of the complaint and was able to acquire it. It is submitted that despite applying for the entire copy of the complaint he has yet not been able to procure the annexures to the said complaint.

9. It is further submitted that the impugned summons/notices have been issued in sheer abuse of process of law, are wholly untenable, unwarranted and hence, liable to be quashed. Section 160 of the Cr.P.C. provides for issuance of notice for compelling attendance to witness in a pending FIR and not before the registration of case. Reliance is placed upon ***V.N. Pachaimuthu vs. The Superintendent of Police, Villupuram District, Villupuram and Ors,*** **2012 SCC OnLine Mad 1020,** wherein the Madras High Court observed as under:-

> *"7. The Petitioner is, therefore, right in contending that the Police has no jurisdiction to harass a citizen, as the duty of the Police in case of receipt of Complaint, showing cognizable offence, is to register an FIR, and thereafter proceed with the investigation under Section 157 of the Code of Criminal Procedure. This can entitle the aggrieved party to work out the remedy in accordance with law, including invoking of Section 482 of Cr.P.C. for quashing of FIR.*
>
> *8. The Respondents also have no right or jurisdiction to direct a party to produce evidence, which may be going against them, as an Accused*

cannot be directed to furnish necessary documents, as it will be for the Police to collect evidence, if any offence is made out, from the Complaint.

9. The Petitioner has placed on record the notice, issued under Section 160 of Cr.P.C., calling Petitioner for enquiry. This notice on the face of it is without jurisdiction and unwarranted in law, as notice under Section 160 Cr.P.C., can be issued to witness in pending FIR, but cannot be issued to a person, who is an accused in a Complaint or before registration of the case.

10. This Writ Petition is, therefore, allowed to a limited extent and the notice issued by second Respondent under Section 160 of Cr.P.C., calling Petitioner for enquiry, is ordered to be quashed.

11. As already observed above, Respondents can only proceed under the provisions of Cr.P.C., in case Complaint discloses any cognizable offences. A citizen cannot be called for enquiry under Section 160 of Cr.P.C., in absence of any FIR. The power under Section 160 of Cr.P.C., can be exercised to call a witness, after FIR is registered."

10. It is further submitted that the impugned summons are without jurisdiction since the said summons under Section 160 of Cr.P.C. have been issued by the concerned Police Station from District S.A.S. Nagar, whereas, the petitioner, who lives in Delhi, does not fall within the jurisdiction of the said Police Station. In support of his arguments, learned senior counsel relied upon ***Ravinder Singh vs. State & Anr*, WP (Crl) No. 971/2010** dated 27th July, 2010 wherein a Coordinate Bench of this Court observed as under:-

> *"Reading of this Section makes it abundantly clear that notice under Section 160 Cr.P.C. can be issued by an Investigating Officer or the police person concerned to a person residing within his own jurisdiction and at the most in the adjoining police station surrounding that police station. There may be 10 police stations adjoining that police station. He can issue summons to person residing within the jurisdiction of all those 10 police stations but beyond adjoining police stations, his jurisdiction is not there to issue summons. The Section does not need help of dictionaries or other judgments for understanding its meaning when there is no ambiguity and it is so clearly written either within his own police station or in the adjoining police station.*
>
> *I, therefore, consider that summons issued to the petitioner under Section 160 Cr.P.C. in Delhi, which is not adjoining police station of Rewari, is without jurisdiction and the notice is, therefore, quashed. However, quashing of this notice under Section 160 Cr.P.C. shall not prevent the concerned Investigating Officer from investigating the case himself, coming to Delhi and contacting the witnesses or the persons having information about the case nor shall quashing of this notice have any other impact on the merits of the case."*

11. It is submitted that a perusal of the complaint shows that the allegations of defamation against the petitioner do not pertain to the complainant and the complainant himself is not aggrieved in any manner whatsoever, and hence, has no *locus standi* to file the complaint against the petitioner. The complaint has been filed to falsely implicate him and is based upon frivolous, ill-founded and misconceived grounds only to

harass the petitioner. It is submitted that a bare perusal of the complaint shows that no offence, whatsoever, either under the provisions of IPC or under the IT Act, is made out against the petitioner and it has only been filed to set off a personal vendetta against him.

12. Learned senior counsel appearing on behalf of the petitioner submitted that the complaint has been filed and the summons have been issued in sheer abuse of process of law, without jurisdiction and against the provisions of the Cr.P.C. and therefore, they are liable to be quashed.

13. *Per Contra*, learned ASC appearing on behalf of the State as well as the learned counsel appearing on behalf of the respondents no. 2 and 3 vehemently opposed the instant petition, the contents made therein as well as the submissions made on behalf of the petitioner.

14. It is submitted that the complaint in question dated 20th December, 2021, which has led to the issuance of the impugned notice/summons, was received by the office of the Senior Superintendent of Police, District S.A.S. Nagar, from the complainants, Rajbikramdeep and Munjanpreet Singh for registration of FIR against the petitioner alongwith another prospective accused, namely, Harvansjit Singh for spreading a false propaganda against the complainants on social media, threatening them, using derogatory and shameful language and leveling false allegations against Jyotdeep Singh, that he had killed Baba Jagroop Singh, whereas, the medical record shows Baba Jagroop Singh had died a natural death.

15. It is submitted that upon receiving representation from the complainants, it was marked for a preliminary enquiry to the respondent no. 3, whereafter the respondent no. 3 commenced inquiry by summoning both the parties to associate them to the inquiry by recording their

respective statements and for the same respondent no. 3 issued the notice dated 25th January, 2022. It is submitted that *de hors* the nomenclature of the notice, the investigating agency had the authority to issue the notice of appearance at the stage of preliminary enquiry to the petitioner as he was a prospective accused person.

16. It is submitted that when the representation of the complainants was at the stage of preliminary enquiry, the complainant Rajbikramdeep Singh and his associate approached the High Court of Punjab and Haryana by way of filing CRWP No. 1276/2022 for issuance of directions to the official respondents for taking action against the private respondents, protection of life of the complainants and registration of FIR against them. The complainants/petitioners therein had apprehension that the followers of Baba Jagroop Singh might physically harm them and their family members. In the said matter, the learned AAG, Punjab, appeared for the respondents before High Court of Punjab and Haryana and conceded to the limited prayer for grant of protection of life and liberty of the petitioners therein. Vide order dated 11th February, 2022, the High Court of Punjab and Haryana directed the concerned official respondents before it to take appropriate steps for protection of life of the complainants, without entering into the merits of the case.

17. Learned counsel for the respondents submitted that in pursuance of order dated 11th February, 2022 passed by the High Court of Punjab and Haryana, the respondent no. 3 herein, issued the impugned notices under Section 160 of the Cr.P.C. dated 9th February, 2022, 25th February, 2022 and 9th March, 2022 to both the parties for joining inquiry.

18. It is submitted that the prospective accused Harvansjit Singh, pursuant to the notices, joined the inquiry on 23rd February, 2022 and his statement was recorded. Thereafter, the complainant, Munjanpreet Singh and Rajbikramdeep Singh also joined enquiry on 21st March, 2022 and 23rd March, 2022, respectively, and their statements were also recorded. However, the petitioner despite several notices did not join enquiry and did not cooperate with the investigation.

19. It is submitted that the petitioner, in sheer abuse of his rights, has approached this Court by way of filing the instant petition seeking quashing of the impugned notices under Section 160 of the Cr.P.C. instead of joining enquiry. It is submitted that the instant petition has been filed based on flimsy grounds besides raising disputed questions of facts, which need not be entertained by this Court at this stage. Moreover, the impugned notices/summons have been issued against the petitioner by adopting proper procedure of law and in compliance of orders passed by the High Court of Punjab and Haryana. It is submitted that there is no merit in the instant petition and the same is liable to be dismissed.

20. Heard learned counsel for the parties and perused the record.

21. The concerned authority, that is respondent no. 3, issued the impugned summons/notices to the petitioner under Section 160 of the Cr.P.C. A perusal of the said provision is deemed necessary at this stage and hence, the same is reproduced hereunder:-

> *"160. Police officer's power to require attendance of witnesses.—*
>
> *(1) Any police officer making an investigation under this Chapter may, by order in writing,*

> *require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required: Provided that no male person [under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person] shall be required to attend at any place other than the place in which such male person or woman resides.*
>
> *(2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence."*

22. It is evident from a bare reading of the provision that a police officer may require attendance of a person who is apparently acquainted with the facts and circumstances of a case that such police officer is investigating. A summons/notice to such a person is to be issued following the due process and procedure of law. The extent of this power is, however, limited by the bounds of jurisdiction. The concerned police officer may issue notice requiring attendance of any person who is within the limits of his own Police Station or that of an adjoining Station. The language itself defines the extents of the power of requiring attendance and the same is to be abided by while proceeding under the provision.

23. The perusal of the provision, poses two questions before this Court that need to be adjudicated for resolving the issue of legality of the summons/notices issued. The first question is whether the concerned

authority/ respondent no. 3 issued the impugned notices at the right stage. Other issue at hand is whether the concerned authority/respondent no. 3 was well within its powers while issuing the summons to a person outside its jurisdiction.

24. To answer the first question, the consideration before this Court is that at what stage a notice under Section 160 of the Cr.P.C. can be issued. The words used under the provision are '*police officer making investigation'.* The Cr.P.C. itself defines investigation in the following terms:-

> *"2(h) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf;"*

Section 2(h) of the Cr.P.C. includes all proceedings under the Cr.P.C. for collection of evidence under the ambit of investigation. In the present case, the concerned authority received the complaint made by the complainants wherein several allegations were made by them against the petitioner and the other prospective co-accused and upon receiving the complaint, it issued summons under Section 160 of the Cr.P.C. giving opportunity to the petitioner to appear personally for further enquiry into the complaint and the allegations leveled in it. Respondent no. 3 summoned the petitioner at the stage of preliminary inquiry, giving him opportunity to adduce oral as well as documentary evidence in pursuance to the complaint received by it. However, whether the preliminary enquiry amounted to investigation or not, is also a consideration before this Court. The Madras High Court, in this regard has made the following

observations in ***V.N. Pachaimuthu (Supra)***:-

> *"9. The Petitioner has placed on record the notice, issued under Section 160 of Cr.P.C., calling Petitioner for enquiry. This notice on the face of it is without jurisdiction and unwarranted in law, as notice under Section 160 Cr.P.C., can be issued to witness in pending FIR, but cannot be issued to a person, who is an accused in a Complaint or before registration of the case.*
>
> *10. This Writ Petition is, therefore, allowed to a limited extent and the notice issued by second Respondent under Section 160 of Cr.P.C., calling Petitioner for enquiry, is ordered to be quashed.*
>
> *11. As already observed above, Respondents can only proceed under the provisions of Cr.P.C., in case Complaint discloses any cognizable offences. A citizen cannot be called for enquiry under Section 160 of Cr.P.C., in absence of any FIR. The power under Section 160 of Cr.P.C., can be exercised to call a witness, after FIR is registered."*

The Hon'ble Supreme Court in ***Samaj Parivartan Samudaya vs. State of Karnataka*** **(2012) 7 SCC 407,** expressed its view on the issue and observed as under:-

> *"25. The machinery of criminal investigation is set into motion by the registration of a first information report (FIR) by the specified police officer of a jurisdictional police station or otherwise. CBI, in terms of its manual has adopted a procedure of conducting limited preinvestigation inquiry as well. In both the cases, the registration of FIR is essential. A police investigation may start with the registration of FIR while in other cases*

(CBI, etc.), an inquiry may lead to the registration of an FIR and thereafter regular investigation may begin in accordance with the provisions of CrPC.

26. Section 154 CrPC places an obligation upon the authorities to register the FIR of the information received, relating to commission of a cognizable offence, whether such information is received orally or in writing by the officer in charge of a police station. A police officer is authorised to investigate such cases without the order of a Magistrate, though, in terms of Section 156(3) CrPC the Magistrate empowered under Section 190 may direct the registration of a case and order the police authorities to conduct investigation, in accordance with the provisions of CrPC. Such an order of the Magistrate under Section 156(3) CrPC is in the nature of a pre-emptory reminder or intimation to the police, to exercise their plenary power of investigation under that section. This would result in a police report under Section 173, whereafter the Magistrate may or may not take cognizance of the offence and proceed under Chapter XVI CrPC. The Magistrate has judicial discretion, upon receipt of a complaint to take cognizance directly under Section 200 CrPC, or to adopt the above procedure. (Ref. Gopal Das Sindhi v. State of Assam [AIR 1961 SC 986 : (1961) 2 Cri LJ 39] ; Mohd. Yousuf v. Afaq Jahan [(2006) 1 SCC 627 : (2006) 1 SCC (Cri) 460 : AIR 2006 SC 705] and Mona Panwar v. High Court of Judicature of Allahabad [(2011) 3 SCC 496 : (2011) 1 SCC (Cri) 1181] .)

27. Once the investigation is conducted in accordance with the provisions of CrPC, a police officer is bound to file a report before the court of

competent jurisdiction, as contemplated under Section 173 CrPC, upon which the Magistrate can proceed to try the offence, if the same were triable by such court or commit the case to the Court of Session. It is significant to note that the provisions of Section 173(8) CrPC open with non obstante language that nothing in the provisions of Sections 173(1) to 173(7) shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate. Thus, under Section 173(8), where charge-sheet has been filed, that court also enjoys the jurisdiction to direct further investigation into the offence. (Ref. Hemant Dhasmana v. CBI [(2001) 7 SCC 536 : 2001 SCC (Cri) 1280] .) This power cannot have any inhibition including such requirement as being obliged to hear the accused before any such direction is made.

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50. There is no provision in CrPC where an investigating agency must provide a hearing to the affected party before registering an FIR or even before carrying on investigation prior to registration of case against the suspect. CBI, as already noticed, may even conduct pre-registration inquiry for which notice is not contemplated under the provisions of the Code, the Police Manual or even as per the precedents laid down by this Court. It is only in those cases where the Court directs initiation of investigation by a specialised agency or transfer investigation to such agency from another agency that the Court may, in its discretion, grant hearing to the suspect or affected parties. However, that also is not an absolute rule of law and is primarily a matter in the judicial

> *discretion of the Court. This question is of no relevance to the present case as we have already heard the interveners."*

25. The Hon'ble Supreme Court in ***Lalita Kumari vs. Govt. of UP & Ors*. (2014) 2 SCC 1,** made the following observations holding that the registration of FIR is a starting point for investigation:-

> *"37.6. A perusal of the abovesaid provisions manifests the legislative intent in both old Codes and the new Code for compulsory registration of FIR in a case of cognizable offence without conducting any preliminary inquiry.*
>
> *38. The precursor to the present Code of 1973 is the Code of 1898 wherein substantial changes were made in the powers and procedure of the police to investigate. The starting point of the powers of police was changed from the power of the officer in charge of a police station to investigate into a cognizable offence without the order of a Magistrate, to the reduction of the first information regarding commission of a cognizable offence, whether received orally or in writing, into writing and into the book separately prescribed by the Provincial Government for recording such first information. As such, a significant change that took place by way of the 1898 Code was with respect to the placement of Section 154 i.e. the provision imposing requirement of recording the first information regarding commission of a cognizable offence in the special book prior to Section 156 i.e. the provision empowering the police officer to investigate a cognizable offence. As such, the objective of such placement of provisions was clear which was to ensure that the recording of the first information should be the starting point of any investigation by the police. In*

> *the interest of expediency of investigation since there was no safeguard of obtaining permission from the Magistrate to commence an investigation, the said procedure of recording first information in their books along with the signature/seal of the informant, would act as an "extremely valuable safeguard" against the excessive, mala fide and illegal exercise of the investigative powers by the police.*
>
> *39. The provisions contained in Chapter XII of the Code deal with information to the police and their powers to investigate. The said Chapter sets out the procedure to be followed during investigation. The objective to be achieved by the procedure prescribed in the said Chapter is to set the criminal law in motion and to provide for all procedural safeguards so as to ensure that the investigation is fair and is not mala fide and there is no scope of tampering with the evidence collected during the investigation."*

Hon'ble Supreme Court further noted that a preliminary inquiry into an offence may not be carried out by the Police prior to registration of FIR, without the interference of the concerned Magistrate as provided for under Section 157 of the Cr.P.C. The observations on this legal point are reproduced as under:-

> *"86. Therefore, conducting an investigation into an offence after registration of FIR under Section 154 of the Code is the "procedure established by law" and, thus, is in conformity with Article 21 of the Constitution. Accordingly, the right of the accused under Article 21 of the Constitution is protected if the FIR is registered first and then the investigation is conducted in accordance with the provisions of law.*

> *87. The term "inquiry" as per Section 2(g) of the Code reads as under:*
>
> > *"2. (g) 'inquiry' means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court."*
>
> *Hence, it is clear that inquiry under the Code is relatable to a judicial act and not to the steps taken by the police which are either investigation after the stage of Section 154 of the Code or termed as "preliminary inquiry" and which are prior to the registration of FIR, even though, no entry in the General Diary/Station Diary/Daily Diary has been made.*
>
> *88. Though there is reference to the terms "preliminary inquiry" and "inquiry" under Section 159 and Sections 202 and 340 of the Code, that is a judicial exercise undertaken by the court and not by the police and is not relevant for the purpose of the present reference."*

26. From the discussion above, it can be deduced that summons/notices under Section 160 of the Cr.P.C. can be issued by a Police Officer who is making investigation under and in accordance with the provisions of the Cr.P.C., and to set into motion such an investigation there is a pre-requisite of registration of FIR. Without registration of FIR, an investigation cannot be said to have been initiated. Further, even for an enquiry to be held legal and valid, the Police Officer has to act in accordance with provisions of the Cr.P.C. and he may not act beyond his powers by conducting a preliminary enquiry without making a report to a Magistrate. Therefore, in the instant case, it cannot be said that either an

investigation or an enquiry was validly or legally being carried out by the concerned authority/ respondent no. 3 even for the limited purposes of issuing a notice under Section 160 of the Cr.P.C.

27. The learned counsel for the respondents relied upon the judgment of the Hon'ble Supreme Court in ***Charansingh vs. State of Maharashtra*, (2021) 5 SCC 469,** wherein it was observed that a preliminary inquiry before the registration of FIR is permissible, however, the background of the case is entirely different from the instant matter. In the case before the Hon'ble Supreme Court such observations were made with reference to a public servant for contravention of provisions of the Prevention of Corruption Act, 1988, which poses a graver threat to the society and the general public. The PC Act is a specific legislation which varies from the provisions laid down under General Acts like the IPC and the Cr.P.C. Therefore, an observation in this regard may not be applicable in the peculiar facts and circumstances of the instant case.

28. The second consideration which is before this Court is whether the concerned authority/respondent no. 3 acted within his powers in terms of territorial limitations while issuing the notices under Section 160 of the Cr.P.C.

29. The provision says that a Police Officer making investigation may require attendance of "*any person being within the limits of his own or any adjoining station",* thereby, clearly and unequivocally setting limits to the jurisdiction within which the police officer is permitted to act. For this point reference is also made to ***Directorate of Enforcement v. State of West Bengal*, 2021 SCC OnLine Del 5603,** wherein while referring to

Section 160 of the Cr.P.C., a coordinate bench of this Court noted as under:

> *"27. By a mere reading of the said provisions, it becomes apparent that power of the Police Officer to require attendance of a witness is circumscribed by the words "within the limits of his own or any adjoining station". It is to be noted that if the said power was in the nature of pan-India power, as has been sought to be argued by the respondents, there was no reason for the Legislature to use the terminology quoted above. To the contrary, if the same was the intention of the Legislature, the Legislature would have clearly stated so and bestowed unlimited jurisdiction on the Police Officer by using terminology in the nature of "anywhere in the country" or even "anywhere within the State" The clear departure of the Legislature and the use of the terms "within the limits of his own or any adjoining station" points towards a legislative intention to limit the jurisdiction in this regard. The reliance placed by the respondents in this regard on the judgment in Anant Brahmachari v. Union of India (supra), may not further the case of the respondents as clearly the said judgment was dealing with a separate statutory setup in the nature of the National Investigation Agency Act, 2008 which would have a strong bearing on the issue as the said agency has jurisdiction across the country. Further, this Court in Ravinder Singh v. State W.P. (Crl.) No. 971/2010 vide order dated 27.07.2010, has held as under:*
>
> > *"The Section does not need help of dictionaries or other judgments for understanding its meaning when there is no ambiguity and it is so clearly written either within his own police station or in the*

> *adjoining police station. I, therefore, consider* ***that summons issued to the petitioner under Section 160 Cr.P.C. in Delhi, which is not adjoining police station of Rewari is without jurisdiction and the notice is, therefore, quashed.****"*
>
> *28. I am, therefore, prima facie inclined to agree with the dictum in Ravinder Singh (supra). Therefore, on the issue of the competence of the Respondents to issue the impugned notices, a serious challenge has been presented by the petitioners, which prima facie, seems to have considerable merit. It may also be noted that the said issue goes to the root of the matter and if the respondents lacks jurisdiction itself to issue the impugned notices, the entire case of the respondents falls."*

30. In the instant matter between the parties before this Court, the impugned summons/notices were issued by the concerned authority/respondent no. 3 from District S.A.S. Nagar, Mohali, Punjab, whereas, the petitioner alleges that he is a resident of J 1/162 E, 2nd Floor, Rajouri Garden, New Delhi – 110027. Even a perusal of the impugned summons/notice reveals that the notice under Section 160 of the Cr.P.C. was issued to the petitioner at his correspondence address at House No. 651, Sector 15, Gurugram, Haryana. Both these addresses are evidently outside and beyond the territorial limits of the concerned Police Station S.A.S. Nagar. The bar of jurisdiction under Section 160 of the Cr.P.C. is indisputably applicable to the instant matter and in such a case, the notice issued can rightly be said to be issued without jurisdiction.

31. Keeping in view the above discussion, the provisions under the Cr.P.C. as well as the observations made by Courts of the Country, it is found that *firstly*, the notice under Section 160 of the Cr.P.C. was not issued at the right stage by the respondent no. 3, since, he could not have been said to be conducting investigation under the Cr.P.C. without the registration of FIR for the purpose of issuance of the notice under Section 160 and *secondly*, the summons/notices were issued without jurisdiction from the concerned authority in S.A.S. Nagar, Mohali, Punjab to the petitioner residing beyond its own station as well as any adjoining station.

32. In light of the abovementioned observations, this Court is of the view that all the impugned notices issued to the petitioner by the respondent no. 3 are liable to be set aside for the reason of being issued in contravention of the provisions of the Cr.P.C.

33. Accordingly, the instant petition is allowed and summons dated 25th January, 2022, 25th February, 2022 and 9th March, 2022, issued by Deputy Captain Police, Cyber Crime, Phase-8, District S.A.S. Nagar in investigation of Application No. /10059/S/SSP dated 21st December, 2021 are hereby quashed, alongwith any other notices issued prior in time with respect to complaint in question, if any.

34. Pending applications, if any, also stand disposed of.

35. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

JUNE 10, 2022
Aj/Ms