

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

**CRM-M-11415 of 2013 (O&M)
Date of Decision: 12.3.2015**

Balwinder Kaur Khaira and another

.....Petitioners

Vs.

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr.Amit Dhawan, Advocate
for the petitioners.

Ms. Anmol Grewal, AAG, Punjab.

Mr. Ravi Malhotra, Advocate
for respondent No.2.

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?

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioners seek quashing of FIR No. 132 dated 2.9.2007 under Sections 406/498-A/506 of the Indian Penal Code ('IPC' for short), registered at Police Station Sadar Kapurthala, alongwith consequential proceedings arising therefrom, including order dated 22.10.2008 (Annexure P-4) passed by the learned Additional Chief Judicial Magistrate, Kapurthala, whereby the petitioners were

declared as proclaimed offenders.

Notice of motion was issued and pursuant thereto, reply was filed on behalf of the State. A separate reply was filed on behalf of respondent No.2.

In compliance of the order dated 26.2.2015 passed by this Court, an affidavit dated 12.3.2015 of the Deputy Superintendent of Police, Sub Division, Kapurthala on behalf of respondent No.1, filed in the Court today, is taken on record and copy thereof has been supplied to the learned counsel for the petitioners.

Learned counsel for the petitioners submits that although the petitioners were named in the FIR, yet they were declared innocent by the investigating agency. He further submits that respondent No.2 has already re-married and she is misusing the process of law. Regarding order dated 22.10.2008 declaring the petitioners proclaimed offenders, he submits that the order was patently illegal and the same was liable to be set aside, because the petitioners had already been declared innocent by the investigating agency. He concluded by submitting that enquiry conducted by the DSP City-I and report dated 18.3.2010 was also approved by the Deputy Inspector General, Jalandhar Range, Jalandhar as late as on 18.5.2010, whereas the petitioners have been declared innocent much earlier. Finally, he prays for setting aside the order declaring the petitioners as proclaimed offenders and also for quashing the impugned FIR qua the petitioners.

Per contra, learned counsel for the State submits that petitioners were named in the FIR. She further submits that although

the petitioners were declared innocent on reconsideration of the matter, yet in the enquiry entrusted to DSP City-I Jalandhar who conducted the effective investigation, petitioners were declared accused. This report was submitted by the DSP City-I Jalandhar on 18.3.2008, which came to be approved by the DIG, Jalandhar Range, Jalandhar, vide order dated 18.5.2010. Defending the order dated 22.10.2008 passed by the learned court of competent jurisdiction declaring the petitioners as proclaimed offenders, she submits that the said order was challenged by the petitioners without any basis and that too after a period of about four and a half years. She concluded by submitting that the petitioners are not entitled for invoking the inherent jurisdiction of this Court under Section 482 Cr.P.C., because they are running from law as they were declared proclaimed offenders, vide order dated 22.10.2008, which deserves to be upheld. She prays for dismissal of the petition.

Learned counsel for respondent No.2-complainant, while endorsing arguments raised by learned counsel for the State, submits that the petitioners are trying to misuse the process of law. He further submits that Ranjit Singh is brother of petitioner No.2 and is residing with the petitioners. All the three are staying together. He submits that the petitioners were declared proclaimed offenders as early as on 22.10.2008, but they did not challenge the said order. However, now after about a period of more than four and half years, they have filed present petition seeking quashing of the FIR as well as the order declaring them proclaimed offenders. He concluded by submitting that present petition is misconceived and the same is

liable to be dismissed with costs.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of case and giving thoughtful consideration to the rival contentions raised, this Court is the considered opinion that present one is not a fit case warranting interference at the hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C. To say so, reasons are more than one, which are being recorded hereinafter.

It is a matter of record and not in dispute that petitioners were named in the impugned FIR. Initially, petitioners were declared innocent by the investigating agency, but when the matter was entrusted to a higher police officer of the rank of DSP, he conducted further investigation and found them accused for the offence alleged against them in the impugned FIR. He submitted the detailed enquiry report which was duly approved by the DIG, Jalandhar Range, Jalandhar. Accordingly, petitioners were challaned and the investigating agency filed police report under Section 173 Cr.P.C. before the court of competent jurisdiction.

Since the petitioners were running from the law, they were rightly declared proclaimed offenders, vide order dated 22.10.2008. Petitioners did not even care to challenge the said order in time and remained conveniently silent for more than four and a half years. Initially, present petition was filed through an attorney, which was not even maintainable as such. Further, instead of surrendering before the learned court of competent jurisdiction, petitioners are seeking

quashing of the impugned FIR and all consequential proceedings arising therefrom, thereby misusing the process of law.

It is the settled proposition of law that FIR and the consequential proceedings therefrom can be quashed, only when after treating allegations against accused to be true on their face value, no offence, whatsoever, is made out against them. However, in view of the peculiar facts and circumstances of the present case, it cannot be said that no offence, whatsoever, is made out against the petitioners. Further, it will be seen during the course of trial and this Court would restrain itself from recording any findings in this regard, so that it may not prejudice the rights of either of the parties.

So far as prayer made on behalf of the petitioners for quashing of the impugned FIR is concerned, the same has been duly considered but has been found without any merit. Similarly, no illegality has been found in the order dated 22.10.2008 passed by the learned court of competent jurisdiction, declaring the petitioners as proclaimed offenders. In this view of the matter, it can be safely concluded that present petition is nothing but sheer misuse of process of law and the same is liable to be dismissed.

During the course of hearing, learned counsel for the petitioners could not point out any illegality or jurisdictional error in the order dated 22.10.2008, declaring the petitioners as proclaimed offenders. Having said that, this Court feels no hesitation to conclude that petitioners cannot claim themselves to be completely innocent at this stage, so as to make themselves entitled for seeking quashing of the impugned FIR, alongwith all consequential proceeding arising

therefrom.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered opinion that present petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference is made out.

Resultantly, with the abovesaid observations made, present petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

12.3.2015
Ak Sharma