

CRM-M-40200-2015 (O&M)

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

**CRM-M-40200-2015 (O&M).
Decided on: December 3, 2015.**

**Dalip Kumar through his son attorney Ishan Oswal
..... Petitioner(s)**

Versus

**State of Punjab
..... Respondent(s)**

*** * ***

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

**PRESENT Mr.Imran Farooqui, Advocate,
for the petitioner.**

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

This petition has been filed by Dalip Kumar through his son Ishan Oswal seeking the quashing of FIR registered under Section 174-A IPC, at Police Station, Malerkotla, District Sangrur on account of he having been declared a proclaimed offender in an FIR No.214 of 30.8.2014, registered at Malerkotla, under Section 420 IPC, having contravened the provisions of Section 82 (4) Cr.P.C.

The petition has been filed on behalf of the petitioner-accused by his son on the basis of a general power of attorney. When questioned regarding the maintainability of the petition, counsel for the petitioner submits that there is no provision in criminal law prohibiting the filing of a petition through an attorney. He has placed reliance upon judgment in case **Dr.Sudhakar Babu Vs. Duwuru (Murala) Nageswaramma and another, 2005 (1) CCR 230**, in support of his contention.

I have considered the contention of the learned counsel for the petitioner and carefully gone through the facts and circumstances of the present case. The petition has been filed through general power of attorney a copy of which has been placed on record. The said power of attorney is an attorney authorising the son of Dalip Kumar to transfer, sell or purchase property.

There is no authority given to the son of the petitioner to file this petition or to challenge the criminal proceedings against the petitioner. Even otherwise, a perusal of the facts and circumstances of the case **Dr.Sudhakar Babu (supra)** indicates that in the said case petitioner through his attorney had challenged two orders by filing two petitions in the High Court one for quashing of order of impounding passport of the petitioner and the other directing the issuance of non-bailable warrants. The High Court had set aside the ex parte order of the Magistrate impounding the passport and had directed that the petitioner would appear before Magistrate within a period of five weeks and would be granted the concession of bail. It has not been laid down as rule of law in said judgment of Andhra Pradesh High Court that the accused without getting bail can seek quashing of the proceedings while sitting abroad through attorney which does not even authorise and is not even embossed as per the provisions of Section 18 of the Stamp Act. The judgment cited by counsel for the petitioner is not applicable to the facts of present case.

CRM-M-40200-2015 (O&M)

The petition is dismissed as not maintainable without prejudice to the rights of the petitioner to avail the legal remedy available to him by challenging the order declaring him proclaimed offender and to seek quashing of the FIR registered under Section 174-A IPC on the basis of said declaration.

December 3, 2015.
rka

(M.M.S. BEDI)
JUDGE