

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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CRM-M-40806-2014 (O&M)
Decided on : 14.12.2015

Surjit Singh and another

... Petitioners

Versus

State of Punjab

.. Respondent

CORAM : HON'BLE MR.JUSTICE NARESH KUMAR SANGHI

Present : Mr.Gurkirat Singh, Advocate
for the petitioners.

Mr.K.S.Pannu, DAG, Punjab.

Naresh Kumar Sanghi, J. (Oral)

CRM-32190-2015

Prayer in this application filed under Section 482, Cr.PC., is for impleading Charan Singh/complainant as respondent No.2, the details mentioned in the application.

After hearing learned counsel for the parties, Charan Singh/complainant is permitted to be impleaded as respondent No.2. Amended memo of parties annexed with the application is taken on record.

CRM stands disposed of.

CRM-M-40806-2014

Present petition under Section 482, Cr.P.C. has been filed for quashing of the order dated 30.03.2010 (Annexure P/5) passed by learned Sub Divisional Judicial Magistrate, Samana, whereby the petitioners were declared as proclaimed offenders.

Learned counsel for the petitioners submits that in the year 2001, Surjit Singh and Jaswinder Pal Singh, petitioners had left India and gone to Canada. Thereafter, Surjit Singh, petitioner No.1 had visited India only once in the year 2006 and again went to Canada. The FIR in question was registered on 08.03.2009 primarily on the ground that in the year 1993, father of the petitioners namely Karnail Singh had entered into an agreement to purchase the land from Gumail Singh. As per prosecution case, the said agreement was forged one.

He further submits that without going into the said controversy at this stage, it would be sufficient to submit that at that point of time, the petitioners were minor and they had no role to play in the execution of the said forged agreement. He further submits that without adhering to the mandatory provisions laid down in Section 82, Cr.P.C., the petitioners were declared as proclaimed offenders. In support of this contention, learned counsel for the petitioners has heavily placed reliance on the photostat copies of documents to the passports of the petitioners.

After hearing learned counsel for the parties and going through the material available on record, it is clearly made out that petitioners had left India in the year 2001 and thereafter Surjit Singh, petitioner No.1 had visited India in the year 2006 for a short period. At the time of registration of the impugned FIR and thereafter, the petitioners never came to India as stated by learned counsel for the petitioners and as

such, they were never served with regard to their proclamation.

In the totality of the facts and circumstances of the case, the impugned order dated 30.03.2010 passed by learned Sub Divisional Judicial Magistrate, Samana is set aside. The petitioners shall appear before the learned trial court within one month and fifteen days from the date of passing of the order and shall be admitted to bail subject to their furnishing bail bonds to the satisfaction of the trial court.

[Naresh Kumar Sanghi]
Judge

14.12.2015
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