

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Miscellaneous No.M-8588 of 2015 (O & M)

Date of Decision: March 18, 2015

Shalini Vashistha

..... PETITIONER

VERSUS

Gursharan Lal & another

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. R.D. Yadav, Advocate, for the petitioner.

. . .

Jaspal Singh, J

1. This petition has been preferred under Section 482 Cr.P.C. seeking quashing of order dated February 21, 2015 (Annexure P-2) passed by learned Sessions Judge, Gurgaon, vide which order dated December 17, 2014 (Annexure P-1) passed by Additional Chief Judicial Magistrate, Gurgaon was set aside and application of respondent No.1 for releasing his passport was allowed, in case FIR No.72 dated May 18, 2009, under Sections 498-A, 406, 506 IPC, Police Station, Sector – 56, Gurgaon.

2. Contention of learned counsel for petitioner is that matrimonial dispute arose between petitioner and respondent No.1

which ultimately led to registration of FIR but respondent No.1 did not cooperate with investigation of this case and evaded his arrest, as a result whereof, he was declared proclaimed offender vide order dated July 13, 2010. Ultimately, police succeeded in getting him arrested on May 30, 2014 and another case bearing FIR No.143 dated May 30, 2014 was registered under Section 174-A IPC at Police Station, Sector 56, Gurgaon.

3. It has further been contended by learned counsel for petitioner that respondent No.1 moved an application seeking return of his original passport which was taken into possession during the course of investigation but considering facts and circumstances of case including the fact that earlier he was declared proclaimed offender, learned Additional Chief Judicial Magistrate dismissed the application, but in criminal revision against said order, preferred by respondent No.1, release of original passport in his favour was ordered. Order passed by learned Sessions Judge suffers from material infirmities and illegalities. Learned Sessions Judge failed to appreciate the fact that petitioner did not cooperate with investigation, remained absconded and was ultimately declared proclaimed offender. Even, there is every likelihood of his fleeing away from justice after obtaining passport. So, impugned order deserves to be set aside.

4. This Court has anxiously considered the submissions made by learned counsel for petitioner but finds the same to be of no legal weight for the simple reason that pendency of trial does not mean that a person cannot be allowed to visit abroad to carry on his business or to join his service. It is an admitted fact that petitioner is permanently residing abroad and working there. Here in India, he would be without any job. There is no source of income for him. It would also be highly difficult for him to satisfy orders passed by this Court with regard to grant of maintenance to petitioner. Infact, there is no illegality or infirmity in impugned order as same is fully justified. Each and every aspect has already been discussed at length by learned Sessions Judge. It appears that application for return of passport is being resisted by wife just to debar the petitioner from visiting abroad just for causing harassment and with the purpose that he may not continue with his job in abroad. Moreover, return of passport has been ordered on furnishing adequate personal/ surety bonds in the sum of ₹ 2 lac to the satisfaction of trial court and with further direction to appear before trial court on next date of hearing.

5. In the given circumstances, this court does not find any merit in this petition and same is accordingly dismissed.

March 18, 2015

**(Jaspal Singh)
Judge**

