

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-31819-2016 (O&M)

Date of decision: September 15, 2016.

Joga Singh and others

... **Petitioners**

v.

State of Punjab and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Deepak Bhardwaj, Advocate for the petitioner.

**A.B. Chaudhari**, J. (Oral):

In FIR No.576 dated 9.12.2008, under Sections 406, 420, 120-B IPC, registered at Police Station Sadar Patiala, District Patiala, the trial is already on, as contended by Learned Counsel for the petitioner. He fairly states that two witnesses have also been examined before the trial court. He further states that the complainant has not yet been examined and thus the trial is being prolonged and admittedly bailable warrants have been issued for securing presence of the complainant. He prays that the petitioners are pretty old and also one of them, namely, Pritpal Singh is in the USA and is ailing while the other accused Joga Singh is held up in India and as he is an American citizen. He therefore submits that the complainant is just prolonging the trial. He further submits that the FIR should be quashed by this Court and in case the request is not acceded to, the three accused persons, namely, Joga Singh, Man Kaur and Pritpar Singh should be granted

permanent exemption from appearance on health grounds etc.

I have carefully considered the submissions made by Learned Counsel for the petitioners. It cannot be forgotten that the FIR is of the year 2008 while the revisional order dismissing the plea for discharge was made in the year 2012 and the present petition has been filed in the year 2016. The delay and laches on the part of the petitioners in filing the present petition should be a legitimate ground to reject the petition summarily. However, I find from the contentions raised by Learned Counsel for the petitioners that the trial has already commenced and two witnesses have been examined but the complainant is not appearing to depose before the trial court and as a result the trial court was required to issue bailable warrants to secure the presence of the complainant. This fact certainly tilts in favour of the petitioners particularly in view of the fact that two of them are NRI and old aged persons. It is also necessary to appreciate that one of the accused person, who is a USA citizen is held up in India for the trial.

In my opinion, there is no point in entertaining the present petition in relation to the FIR of the year 2008 particularly when the trial has already commenced. Nonetheless, the trial cannot be allowed to continue till eternity and in the above situation I think that the trial Judge should be directed to completed the trial within a stipulated period. The request regarding permanent exemption cannot be considered by this Court without making proper inquiry. At any rate, it is for the trial court to make suitable inquiry by perusing various documents about the illness and the

reasons for claiming exemption, so also for granting permanent exemption and to allow the accused to face the trial through Advocate. The trial court in that event shall examine all the documents relating to Pritpal Singh and consider the prayer for permanent exemption due to his ailment and treatment in USA and inability to come to India and to allow him to face the trial through Advocate. This Court expects the trial court to decide the application for exemption sympathetically.

Let the trial be completed within a period of four months.

Disposed of.

**[ A.B. Chaudhari ]**  
**Judge**

September 15, 2016.  
*kadyan*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No