

**124-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-34491-2016

Date of decision: September 28, 2016

William Scott Pinckney

...Petitioner

Versus

UT of Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. R.S. Cheema, Senior Advocate with
Mr. Rohit Khanna, Advocate,
Mr. Yoginder Singh, Advocate and
Mr. Rohit Chandel, Advocate
for the petitioner.

JASPAL SINGH, J.(ORAL)

By virtue of the instant petition under Section 482 of Code of Criminal Procedure, petitioner has sought setting aside the impugned order dated 13.09.2016 (Annexure P-12) passed by Chief Judicial Magistrate, Chandigarh in the matter captioned as *State Vs. Prithvi Raj Bijlani and others* bearing No.PCH/10109/2012 in FIR No.280 of 2002 dated 02.12.2002, Police Station 26, Chandigarh, under Sections 3, 4 of Prize Chit and Money Circulation Banning (Scheme) Act and Section 420 of Indian Penal Code and to permit him to remain overseas till 31.10.2016 etc.

Notice of motion.

Mr. A.S. Virk, Additional Advocate General, UT Chandigarh accepts notice on behalf of the respondent. Copy of the petition has been supplied to him.

Earlier, the petitioner preferred *CRM-M No.14142 of 2014* captioned as *William Scott Pinchney vs. UT Chandigarh* and the said petition was disposed of with the following direction:-

“Accordingly, this petition is disposed of with a direction that, before travelling abroad, petitioner shall not leave the country without apprising the trial Court of his intention to do so and duration of his visit abroad at least a week before his departure. Petitioner shall further inform the trial Court about his full travelling plans/address qua the place of his visit and his contact number. The trial Court shall allow the petitioner to go abroad subject to surety furnished by the petitioner to the satisfaction of the trial Court. However, the petitioner shall ensure that he visits abroad during the period when the case is not listed before the trial Court.

Petition stands disposed of accordingly.”

The contention of learned counsel for the petitioner is that now the matter is listed before the Chief Judicial Magistrate, Chandigarh for 30th September, 2016 for arguments on charge, however, since the VISA of the petitioner was expiring, an application seeking exemption for appearance of the petitioner for 30th September, 2016 was moved but that was declined vide impugned order dated 13th September, 2016 (Annexure P-12) simply misinterpreting the order dated 28th August, 2014 passed by this Court.

No doubt, petitioner was directed to ensure that he visits abroad, during the period when the case was listed before the trial Court but it does not mean that the petitioner has been precluded or debarred from moving an application under Section 205 Cr.P.C. especially in hardship or exceptional circumstances. In the case in hand, petitioner left abroad after the rejection of the application moved by him with the sole purpose for

renewal of VISA which is otherwise expiring on 28th September, 2016 i.e. today, which is likely to take some time. It was only due to the said reason, he was unable to return.

The instant petition is disposed of with direction to the petitioner to move an application under Section 205 Cr.P.C. through his counsel before the trial Court and the trial Court shall grant the necessary exemption for 30th September, 2016 i.e the date, the matter is listed before it.

Process Dasti.

September 28, 2016
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No