

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

CRM-M-36270-2015

Date of decision: 07.11.2016

Sanjit Singh & Ors.

.....Petitioners

Versus

State of Punjab & Anr.

.....Respondents

CORAM : HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. M.S. Kang, Advocate,
for the petitioners.

Mr. Mikhail Kad, AAG, Punjab
for respondent No.1-State.

None for respondent No.2.

Jaishree Thakur, J.(Oral)

The instant petition under Section 482 Cr.P.C. has been filed seeking quashing of FIR No. 61 dated 06.07.2011 under Sections 406/498-A/120-B IPC registered at Police Station Mehatpur, District Jalandhar against the petitioners and others with a prayer for setting aside the impugned order dated 17.12.2011 (Annexure P-2) declaring them as a proclaimed offenders.

2. The petitioners herein are the husband and parents-in-law of the complainant respondent No.2, who are currently permanent residents of Birmingham in United Kingdom. It is contended that Sanjit Singh petitioner No.1 got married to Rajwinder Kaur respondent No.2 in August/September 2009. Thereafter the petitioners left for United Kingdom without the complainant and certain differences took place which led to the filing of a

complaint to the Senior Superintendent of Police, Jalandhar for registration of a case under Sections 406/498-A/120-B IPC against the petitioners and several others. On the basis of the said complaint, an FIR No. 61 dated 06.07.2011 under Sections 406/498-A/120-B IPC came to be registered at Police Station Mehatpur, District Jalandhar. In the said proceedings the petitioners were declared proclaimed offenders by order dated 17.12.2011 (Annexure P-2) on the ground that they had not put in appearance despite service.

3. Counsel for the petitioners contends that the impugned order declaring the petitioners as proclaimed offenders is not sustainable on account of the fact that they were never served properly. In fact, they left India and were permanent residents of Birmingham in United Kingdom which fact was not brought to the notice of the Court or to the police authorities. In this regard, counsel for the petitioners relies upon a judgment rendered by Coordinate Bench of this Court in ***Rajiv Mehta and another vs. State of Punjab and others, 2015(4) R.C.R. (Criminal) 340*** where the learned Single Bench found that the complainant had kept the Court of competent jurisdiction as well as the police authorities in dark by concealing the truth that the accused were not staying in India and on that basis it was held that the complainant had not approached the Court with clean hands and would not be entitled to proceed under the FIR and accordingly quashed the same. Learned Single Bench while quashing the said FIR also relied upon catena of judgments on the subject, including the following judgments of the Hon'ble Supreme Court as well as this court :-

1) ***G.V.Rao, Vs. LHV Prasad, 2000 (3) SCC 693***

- 2) ***Manjula Sinha Vs. State of U.P. and others, 2007(3) RCR (Crl.) 778,***
- 3) ***Sundar Babu and others Vs. State of Tamil Nadu, 2009(14) SCC 244***
- 4) ***Preeti Gupta and another Vs. State of Jharkhand and another, 2010 (7) SCC 667***
- 5) ***Geeta Mehrotra Vs. State of U.P. And another 2012 (10) SCC 741***
- 6) ***K. Srinivas Rao Vs. D.A.Deepa 2013 (5) SCC 226***
- 7) ***Sushil Kumar Sharma Vs. Union of India and others 2005 (6) SCC 281***
- 8) ***Madan Lal and others Vs. State of Punjab (P&H) 2012 (8) RCR (criminal) 428***
- 9) ***Gurdial Singh and another Vs. State of Punjab and others*** decided by this court in ***CRM No.M-36189 of 2010.***

4. In the instant case as well, despite knowing that the petitioners are permanent residents of United Kingdom, which fact was not brought to the notice of the competent Court and the correct addresses were not furnished leading to the impugned order being passed. This Court takes notice of the fact that respondent No.2 has refused to accept service and has not put in appearance in the Court proceedings. **Notices were affixed on** her residential address. Counsel for the petitioners has also placed on record a marriage certificate showing that Rajwinder Kaur has remarried with Sukhwinder Singh Dhandwar on 13.12.2014 after obtaining ex parte decree of divorce.

5. Counsel for the respondent-State also submits that the co-accused have been acquitted.

6. Placing reliance upon the judgment ***Rajiv Mehta and another*** case (supra) it is hereby directed that the order dated 17.12.2011 declaring the petitioners as proclaimed offenders is kept in abeyance till 31.1.2017

allowing the petitioners to approach the trial Court to have the same set aside. It is directed that the petitioners be not arrested till that date. On putting in an appearance before the trial court, the petitioners be enlarged on bail. Needless to say, the interim protection granted is till the 31.01.2017 and in case the petitioners do not put in an appearance the interim protection granted today will stand automatically vacated. Thereafter the petitioners are always at liberty to approach to competent authority for appropriate relief thereafter as per law.

7. With these observations, the instant petition is disposed of.

07.11.2016

sp

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No.