

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

CRM-M-43058-2015 &
CRM-M-3357-2016
Date of decision: July 06, 2017.

Daljit Kaur

... **Petitioner**

v.

State of Punjab

... **Respondent**

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

Present: Shri Atul Lakhanpal, Sr. Advocate with
Shri Gagandeep Singh, Advocate for the petitioner.

Ms. Samina Dhir, Deputy Advocate General, Punjab.

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

These two petitions are being disposed of by this common order.

The petitioner was declared a proclaimed offender in FIR No.79 dated 27.3.2006, under Sections 7, 8, 13(2) of the Prevention of Corruption Act, 1988, registered at Police Station Khanna City, District Ludhiana.

The allegations against the petitioner levelled by the prosecution are that the petitioner was intermediary in the payment of bribe to the Inspector in a dispute that arose out of matrimonial discord. The investigation was made and on all the three occasions, the police found no substance in the allegations against the petitioner, that is why, the

cancellation report has been filed on 12.3.2007, 9.1.2009 and 30.12.2011.

The petitioner however did not appear before the trial court because, according to the petitioner, she has been residing in Canada and has a dispute with her husband who also resides in Canada. By the impugned order, she has been declared a proclaimed offender in the said proceedings and consequently offence under Section 174-A IPC was registered against the petitioner. That action has been challenged in CRM-M-3357-2016.

Looking to the nature of allegations, as stated above, and looking to the further significant fact that the police themselves have decided to file a cancellation report and rather they have filed a cancellation report, I do not think there is any point in insisting for attendance of the petitioner before the trial court in the matter of the hearing of the cancellation report, obviously in favour of the petitioner. The need for the petitioner to appear before the trial court would arise only if the trial court accepts the protest petition, if any filed by the complainant. However, that stage is yet to come. In my opinion, therefore, there is hardly any point in asking the petitioner to appear before the trial court in the proceedings for cancellation report in favour of the petitioner since a decision will have to be taken by the trial court whether to accept the cancellation report or not. If the trial court does not accept the cancellation report then that is a different matter. But in any eventuality in a matter of proclaimed offender and to ask for attendance of the petitioner in these proceedings is uncalled for. In that view of the matter, the petition is allowed in terms of its prayer clause, which reads thus:-

“Petition under Section 482 Cr.P.C. for quashing of the order

dated 30.9.2015 (Annexure P/2) passed by learned Additional Sessions Judge, Ludhiana and proclamation dated 3.10.2015 (Annexure P/3) passed by the learned Additional Sessions Judge, Ludhiana vide which the petitioner has been declared proclaimed offender in FIR No.79 dated 27.3.2006 under Sections 7, 8, 13(2) of Prevention of Corruption Act, 1988, lodged at Police Station Khanna City, District Ludhiana.”

In CRM-M-3357-2016, there is a challenge to the order dated 5.11.2015 (Annexure P-4) by which the intimation was sent to the police for registration of offence under Section 174-A IPC. For the reasons given by me above while deciding CRM-M-43058-2015, present petition will have to be allowed. In the result, the impugned order dated 5.11.2015 (Annexure P-4) is quashed and set aside. It is clarified, and as stated by Learned Counsel for the petitioner on behalf of the petitioner, that the petitioner would be bound to appear before the trial court in case the trial court decides to issue the summons to the accused.

Disposed of.

July 06, 2017.
kadyan

[A.B. Chaudhari]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No