

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No.46321 of 2017 (O&M)

Date of decision : 12.12.2017

...

Harmeet Singh

.....Petitioner

vs.

State of Haryana and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Aayush Gupta, Advocate for the petitioner.

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H. S. Madaan, J. (Oral)

Petitioner - Harmeet Singh is an accused in FIR No. 268 dated 25.3.2014, for offences under Sections 406, 420, 506, 120-B IPC, registered with Police Station Civil Lines, Karnal.

Briefly stated, the prosecution story is that the abovesaid FIR was registered on the basis of complaint submitted by complainant Shamsher Singh, for taking action against one Ranjit Singh, his wife, Harmeet Singh – present petitioner, Ramanprit (present petitioner's wife) and some others, for cheating, fraud and giving threats, for the reason that Bhupender Narwal son, Seema Rani daughter and

Arwinder Sandhu son-in-law of the complainant had gone to Perth, Australia, in the year 2008, to do Hotel Management Course and during their stay at Parth, Australia, they came across Harmeet and others, who fraudulently represented to such relatives of the complainant that they could provide permanent residency in Parth, Australia, through a company on payment of 90,000 dollars. However, the matter was finalized for 70,000 dollars. 10,000 dollars were given in cash to Harmeet Singh and 30,000 dollars to Parveen Kaur and her husband Bhupender Singh, and remaining payment was also made. However, the promise was not kept. The accused had fleeced further money from the complainant, running into lacs of rupees. The accused had neither kept their assurance nor returned the money.

Formal FIR was registered. The petitioner-accused was arrested in this case and was put to face trial, which is pending in the Court. He had moved an application seeking permanent exemption, which was declined by the trial Court vide a well reasoned order.

The trial Court has noted the contention of the prosecution that petitioner had not joined the investigation despite service of notice under Section 160 Cr.P.C. and even Australian Embassy was duly apprised about the involvement of the accused in the case, but still he failed to join the investigation and warrants of arrest were got issued against him and he was ultimately arrested on 1.1.2016. His co-accused residing in Australia have not yet been arrested. The trial Court has given reasons for rejection of the application in paragraph No. 9, which reads as under:-

“9. The application has been moved by the accused on the ground that since he is resident of Australia and it is very difficult for him to appear before the court on each and every date of hearing from Australia and he is also facing certain health problems and his appearance be exempted. First of all, the applicant has not placed on record any medical record to show that he is facing what kind of health problems while appearing before the court. Secondly, merely because the accused has to come from long distance by itself is not a ground to exempt his personal appearance before the court, more particularly when he has absented himself from the court for the last three dates of hearing and appeared today only. The trial has been delayed due to non-appearance of accused Harmeet Singh and therefore, this court is not inclined to exempt his appearance permanently. Furthermore, since accused is resident of Australia, it would be very difficult to secure his presence, if he fled away and absconded. As such, the application moved by the accused is hereby dismissed.”

It may be mentioned here that the prosecution had moved an application for directing the accused petitioner to surrender his passport and not to leave India during trial. However, the trial Court was somewhat generous with the petitioner in rejecting that application and not issuing the directions sought for the petitioner.

The apprehension expressed in the order passed by the trial

Court that since the accused is resident of Australia, it would be very difficult to secure his presence, if he absconds, cannot be brushed aside lightly.

There is no merit in the petition and the same stands dismissed.

(H.S. Madaan)
Judge

12.12.2017

chugh	Whether speaking / reasoned	Yes / No
	Whether reportable	Yes / No