

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

**CRM-M-1567-2018
Date of decision:-18.1.2018**

Jaswinder Singh and another

...Petitioners

Versus

Jasbir Singh

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Harjeet Savra, Advocate
for the petitioners.

H.S. MADAAN, J.

By way of filing the present petition, petitioners – Jaswinder Singh and Monika seek quashing of complaint No.172 of 11.8.2016 under Sections 452, 506, 427, 148, 149, 120-B, 34 IPC filed against them and others by complainant – Jasbir Singh arrayed as respondent in the petition, as well as orders dated 24.7.2013, 8.11.2016 passed by Chief Judicial Magistrate, Hoshiarpur whereby petitioners have been declared proclaimed offenders besides all subsequent proceedings arising therefrom on the ground that other co-accused have already been acquitted by Chief Judicial Magistrate, Hoshiarpur vide order dated 12.6.2015.

Briefly stated, facts of the case are that complainant Jasbir Singh had brought a complaint against as many as 27 persons on the

allegations that father of complainant namely Sh.Satnam Singh was owner in possession of '*Taur*' No.8, one Kanal 10 Marlas and after his death on 19.2.2004 his sons, namely Jasbir Singh, Ajmer Singh and Ravinder Singh inherited the same. The complainant and his brothers had constructed their houses therein and on 5.6.2006 at 11:30 a.m., all the accused armed with hammers and crossbars trespassed in the house of complainant, demolished the bath room, mangers, hand-pump etc. Although the complainant stopped them from doing so but they threatened to kill him. The complainant had raised alarm, which attracted several persons but accused had threatened them also. According to the complainant, he had reported the matter to the police but no action was taken. Hence the complaint was filed in the Court competent jurisdiction.

After recording preliminary evidence, accused were summoned and they put in appearance. They were charge-sheeted for the offences under Sections 148, 452, 427, 506 IPC read with Section 149 IPC, to which they pleaded not guilty. Witnesses of complainant were subjected to further cross-examination. Thereafter, complainant closed his after charge evidence. Statements of accused were recorded under Section 313 Cr.P.C. and they were allowed to lead defence evidence.

After hearing arguments, learned trial Court acquitted the accused of the charge framed against them. It may be mentioned here that Mohan Lal, Paramjit Kaur and Jaswinder Singh were declared proclaimed offenders, whereas proceedings against accused Monika had been separated, though she was also declared a proclaimed offender later

on.

I have heard learned counsel for the petitioners besides going through the record and I find that the conduct of the petitioners has been such that they avoided appearance in the Court. They had not put in appearance within 30 days of publication of proclamation under Section 82 Cr.P.C., as such they were declared proclaimed offenders. Although in the petition it has been contended that proper procedure was not followed while declaring the petitioners as proclaimed offenders but learned counsel for the petitioners could not convince me as to how there was any procedural lapse or irregularity while declaring the petitioners as proclaimed offenders. The complaint was filed on 11.8.2006, whereas Mohan Lal, Paramjit Kaur and Jaswinder Singh were declared proclaimed offenders vide order dated 24.7.2013 and Monika was declared a proclaimed offender vide order dated 8.11.2016. It is stated that the petitioners had gone abroad. But then on being summoned by the Court of competent jurisdiction, they should have informed the Court in that regard and put in appearance may be they could have sought exemption from personal appearance from the trial Court. They could have also applied for permission to go abroad. It is not believable that they were not aware of the pendency of proceedings. The petitioners had obviously shown disregard to the process of the Court. Now they are not justified in seeking quashing of the complaint and the order declaring them as proclaimed offenders simply for the reason that their co-accused have been acquitted. The conduct of the petitioners clearly debar them from seeking this relief. Furthermore, acquittal of co-accused does not mean that the complaint so filed was

abuse of process of law or that it does not disclose any offence.

Learned counsel for the petitioners has argued that in a similar case decided by a Co-ordinate Bench of this Court i.e. *Gurwinder Singh @ Mintu Versus State of Punjab, 2012(3) R.C.R.(Criminal) 360*, it was observed that when three accused remained absconded, whereas three accused had been sent up for trial but acquitted for want of cogent evidence, proceedings against petitioner were also quashed holding that it would be an exercise in futility in proceeding against the petitioner on the same set of evidence.

I have gone through this authority and I find that the same is not applicable to this case due to different facts and circumstances.

Finding no merits in the petition, the same stands dismissed.

However, the petitioners, who had been declared as proclaimed offenders are directed to surrender in the trial Court within seven days from today and on their moving applications for regular bail, the trial Court is to decide the said applications expeditiously preferably within a period of 10 days.

18.1.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No