

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

**CRM-M No.3016 of 2019 (O&M)
Date of Decision: 21.11.2019**

Varinder Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Chander Shekhar Sharma, Advocate for the petitioner.

Mr. V.G.Jauhar, Sr. DAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 482 Cr.P.C. for quashing the impugned order dated 13.12.2018 (P-4), passed by learned Judicial Magistrate 1st Class, Jalandhar, whereby the petitioner has been declared as proclaimed person.

This Court, on 24.01.2019, passed the following order:-

“Learned Counsel for the petitioner contends that the matter has been compromised between the parties by way of Compromise Deed dated 31.10.2017 (P-2).

Notice of motion for 28.02.2019.

On the asking of the Court, Mr. Sandeep Kumar, DAG, Punjab, accepts notice on behalf of the respondent/State. Copy of the petition be supplied to him during the course of the day.

Petitioner is directed to join the proceedings before learned trial Court and in case, he moves an application for bail, he be released on interim bail till the next date of hearing to the satisfaction of learned trial Court/Duty Magistrate concerned.”

Learned Counsel for the petitioner has submitted that in terms of above order, petitioner has already joined the proceedings, released on interim bail and is regularly appearing before learned trial Court.

The factum of joining the proceedings by the petitioner is duly acknowledged by learned State Counsel, on instructions from the police official present in the Court.

On merits, it is submitted that wife of the petitioner, namely, Shivani met with an accident on 06.09.2018, her back bone was fractured and she remained admitted in the Government Hospital, Amritsar. On account of that factual position, petitioner could not appear before learned trial Court and consequently, proceedings under Section 83 Cr.P.C. were initiated against him, resulting into passing of impugned order. Thus, the same was not intentional, but beyond his control.

Taking into consideration the above undisputed factum of serious injuries, suffered by the wife of the petitioner, this Court is of the opinion that the petitioner was genuinely estopped from appearing before learned trial Court on the relevant date and thus, impugned order dated 13.12.2018, passed by learned Judicial Magistrate 1st Class, Jalandhar deserves to be set aside.

As a result thereof, present petition is allowed and impugned order dated 13.12.2018, passed by learned Judicial Magistrate 1st Class, Jalandhar, is set aside and order dated 24.01.2019 of this Court is made absolute.

It is made clear that the petitioner shall fully co-operate with the learned trial Court and will not seek unnecessary adjournments.

The observations, made above, may not be considered as an expression of opinion on the merits of the case.

November 21, 2019

Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes