

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

CRM-M-6403-2019

Date of Decision:23.05.2019

Sarabjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. J.S. Mehndiratta, Advocate,
for the petitioner.**

Mr. Jagmohan Ghumman, D.A.G., Punjab.

**Mr. Gurdeepinder Singh Dhillon, Advocate,
for the complainant.**

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 482 Cr.P.C., is for setting aside the order dated 27.11.2012 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Mohali in FIR No.46 dated 08.09.2011 under Sections 406, 498-A IPC, registered at Police Station Naya Gaon, District SAS Nagar, Mohali, whereby the petitioner was declared absconder as despite proclamation having been effected on 14.09.2012, he did not appear before the Magistrate.

In the connected petition bearing CRM-M-6116-2019 (Sarabjit Singh Versus State of Punjab and another) filed by the petitioner, this Court had passed the following order on 11.02.2019:-

“Learned counsel states that vide order dated 27.11.2012

passed by the trial Court, the petitioner was declared as proclaimed person/absconder and not vide order dated 12.04.2013, as mentioned in the order dated 05.12.2018 passed by learned Additional Sessions Judge, SAS Nagar, Mohali, while dismissing anticipatory bail of petitioner.

He further states that the petitioner being not in India after 14.06.2011 till 10.01.2016, could not have been served during this period. The marriage of the petitioner-husband and complainant-wife was solemnised on 11.12.2010. There are some temperamental differences between them and at this stage, the petitioner is ready to settle the dispute.

On the oral request of learned counsel for the petitioner, complainant Sarita is ordered to be impleaded as respondent No.2.

Learned counsel for the petitioner is directed to file amended Memo of Parties within three days.

Notice of motion for 20.03.2019.

The petitioner shall pay a sum of Rs.25,000/- to respondent No.2 as litigation expenses on the next date of hearing.

The respondent No.2 shall remain present in Court on the adjourned date.

Till next date, arrest of the petitioner shall remain stayed.”

Learned counsel for the petitioner states that the petitioner was not in India after 14.06.2011 till 10.01.2016, therefore, he could not have been declared absconder vide order dated 27.11.2012. He further states that now the matter has been resolved between the parties before the Mediator and settlement/agreement dated 17.05.2019 has been reduced into writing. The petitioner has not been served in the case. Moreover, the matter has been compromised between the parties and the petitioner is ready to appear/surrender before the trial court within a period of 20 days from

today.

Learned counsel for the complainant does not dispute the very factum of compromise and submits that he has no objection in case the petitioner appears/surrenders before the trial court and face the trial in accordance with law.

In view of the above, the present petition is disposed of with a direction that in case the petitioner appears/surrenders before the trial court within a period of 20 days from today, the trial court shall admit him on bail, subject to furnishing of his bail bonds/surety bonds to its satisfaction, however, subject to payment of costs of ₹30,000/- to be paid by the petitioner with the Poor Patients Welfare Fund, PGIMER, Chandigarh.

If the petitioner appears/surrenders before the trial court, the order dated 27.11.2012 passed by learned Judicial Magistrate 1st Class, Mohali, shall be deemed to have been quashed.

May 23, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No