

CRM-30125-2019 in/and
CRM-M-1770-2018

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-30125-2019 in/and
CRM-M-1770-2018
Date of Decision: 19.12.2019

Amrit Kaur

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: 'Proxy' counsel for Mr. Vaibhag Narang, Advocate,
for the petitioner.

Mr. B.S. Sewak, Addl. A.G., Punjab.

Mr. Vivek Singla, Advocate,
for respondent no. 2.

AMOL RATTAN SINGH, J. (ORAL)

To give the background of the petition, on 11.12.2019, the following
order had been passed:-

“By this petition, quashing of Criminal Complaint No. 36, dated 04.04.2016 (Annexure P/4), instituted before the learned Area Magistrate on May 22, 2016 by respondent No.2 herein, is sought, the said complaint alleging therein the commission of offences punishable under Sections 382, 323, 324, 325, 506(2), 427, 339, 340, 120-B of the IPC.

Notice of motion had been issued in this petition on 18.01.2018 and thereafter, upon CRM No. 30125 of 2019 having been filed, seeking a stay on proceedings before the trial Court, the following order had

been passed by this Court on 27.09.2019:-

“By this application, stay on proceedings before the trial court is sought by the applicant-petitioner, on the ground that though upon notice of motion having been issued in the accompanying petition on 18.01.2018, service is complete upon the respondents, respondent no.2, i.e. the complainant before the trial court, has still not filed a reply.

It has been further stated that as a matter of fact, on the date of the alleged occurrence, i.e. 18.11.2015, the petitioner, who is stated to be 69 years old, was in New Zealand, in support of which he has drawn attention to a copy of the petitioners' passport (as has been annexed as a part of Annexure P-7, collectively)

The allegation in the petition is that the petitioner, Amrit Kaur, instigated her other co-accused, as can be seen from paragraph 2 of the complaint (Annexure P-4).

Notice in the application to the counsel for the respondent, with it seen that the State of Punjab has already filed a reply in the form of an affidavit of Sh. Piara Singh, Assistant Commissioner of Police, Licensing, Amritsar City.

Adjourned to 11.12.2019, with respondent no.2 be served by way of dasti process also.

In the meanwhile, till the next date of hearing, the petitioner shall not be summoned by the trial court.

For the purpose of determining whether respondent no.2 has been served or not in the application, as also in the petition, to be shown in the urgent motion list.”

Today, learned State counsel as also counsel for respondent No.2 (as the contesting respondent) have put in an appearance.

Learned counsel for the petitioner has also produced in Court the petitioner's passport, seen to be valid from 23.07.2015 to 22.07.2025, with him pointing out that she had left India on November 3, 2015 and that she had entered New Zealand on November 4, 2015, with her having returned from there on May 4, 2016, as per the stamps of the immigration authorities of New Zealand and India (as are present on the passport).

He has also produced in Court what are seen to be boarding passes issued by the Airline THAI, Airways on November 3 (with the year not given), showing that Amrit Kaur boarded first a plane from Delhi to Bangkok on that date and thereafter from Bangkok to Auckland, again on the same date.

Upon the aforesaid facts being put to learned counsel for respondent no.2, he could not deny the factual position, but seeks time to file a reply/ seek instructions.

It is to be noticed that in the complaint (copy Annexure P-4), it is stated by the complainant that an occurrence took place on 18.11.2015, at about 12.30 to 12.45 p.m. at night, in which, as regards the petitioner's role, i.e. Amrit Kaur's role, she was instigating all the accused persons, with the other accused allegedly having attacked the complainant with sharp edged weapons.

Very obviously, unless respondent no.2 can

prove that the passport itself and the stamps thereon are forged, (which at least prima facie, on a perusal thereof would not seem to be so), and with the age of the petitioner also shown to be about 70 years, (her date of birth being May 4, 1949, as per the passport), I see no reason as to why this petition should not be allowed, as regards the petitioner.

The passport and the boarding passes have been returned to learned counsel for the petitioner.

Adjourned to 19.12.2019.

To be shown in the urgent motion list.

Learned counsel for the complainant/respondent no.2 would take instructions as he wishes.”

Today, learned counsel for respondent no. 2, i.e. the complainant before the JMIC, Amritsar, submits that in fact the complainant is in the process of withdrawing the complaint itself and would move an appropriate application in that regard.

In view of the above and what has already been recorded in the order dated 11.12.2019, in any case proceedings against the petitioner shall remain stayed, till the withdrawal of the complaint.

The petition is therefore disposed of as having been rendered infructuous.

If the complainant backs out from his statement, the petitioner would be at liberty to take appropriate remedies by filing an application before this Court.

December 19, 2019
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.