

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-8037-2016 (O&M)
Date of Decision:-7.12.2019

Iqbal Singh Khangura ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ashish Soi, Advocate for the petitioner.

Ms. Rashmi Attri, Assistant Advocate General, Punjab,
assisted by ASI Jaswinder Singh.

GURVINDER SINGH GILL, J.(Oral)

Mr. Ashish Soi, Advocate has today put in appearance on behalf of the petitioner and has filed *Vakalatnama*, which is taken on record.

Today, at the very outset, the learned counsel for the petitioner submits that he withdraws his prayer made in the petition as far as the same pertains to quashing of the FIR with liberty to raise all the pleas raised herein before the Trial Court at appropriate stage including his plea to the effect that the petitioner has falsely been implicated in the present case and that no offence was ever committed in India and that ever since 3.11.2011 he has been residing in Canada.

In view of the aforesaid submission, the petition as far as the same pertains to quashing of FIR is disposed off as withdrawn with liberty aforesaid.

The learned counsel for the petitioner while assailing impugned order dated 31.10.2012 (Annexure P-2) has submitted that the marriage of the petitioner was solemnized with the complainant on 8.3.2011 and that after the petitioner was issued Visa in October 2011, he left for Canada on 3.11.2011 and ever since November 2011 he has been residing in Canada and has never returned back to India. The learned counsel in this regard has drawn the attention of this Court to a copy of his passport annexed at Annexure P-4 wherein the date of departure from India has been stamped as 3.11.2011 and there is no other entry in respect of his having returned to India ever thereafter.

The learned counsel has further submitted that in the present case FIR was lodged much later i.e. on 4.7.2012 while the petitioner was in Canada and that he was never aware of the aforesaid FIR nor any summons were ever served upon him and that in these circumstances the impugned order passed at the back of the petitioner without any intimation or knowledge to the petitioner cannot sustain and is liable to be set aside.

The learned State counsel has not been able to dispute the aforesaid position regarding the petitioner being away from India when the FIR was lodged and even thereafter.

In these circumstances, it can well be presumed that the petitioner was not aware of lodging of the FIR and that no summons were ever served upon him. Consequently, the proclamation effected in India

while the petitioner was always in Canada cannot be said to have given sufficient notice to the petitioner regarding pendency of the proceedings in India. Consequently, the impugned order dated 31.10.2012 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Ludhiana declaring the petitioner as proclaimed offender cannot sustain and is hereby set aside.

Needless to mention, the petitioner would be at liberty to avail of all such remedies as may be available to him in accordance with law seeking protection from his arrest.

The petition stands accepted to the extent indicated above.

7.12.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether reasoned/speaking

Yes / No

Whether reportable

Yes / No