

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28241-2019

Date of Decision: 18.12.2019

Sandeep Kumar and another

.....Petitioners

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. M.S. Kathuria, Advocate,
for the petitioners.

Mr. Surender Singh, A.A.G., Haryana.

Mr. Gulshan Nandwan, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioners seek quashing of complaint no. COMI-1857-2013, as also the summoning order passed in that complaint by the learned trial Court on 02.02.2017 (copy Annexure P-6), by which process was ordered to be issued.

It is necessary to notice here itself (for the reasons which would be forthcoming further down) that this petition is seen to be dated 03.06.2019, it having been actually filed in the Registry of this Court on 03.07.2019.

Previous orders prior thereto apart, on 17.10.2019 the following order had been passed by this Court:-

“Pursuant to the order of this court dated 09.09.2019, learned counsel for the petitioners has placed on record the orders of the trial court dated

01.08.2017 and 11.09.2017, which of course does not comply with the aforesaid order of this court, because he was required to place on record the orders of the trial court for three dates prior to August 30, 2017.

However, he points out that the orders prior to 01.08.2017 are already on record as Annexure P-7 (colly).

Let notice of motion be issued to the respondents, returnable on 18.12.2019.

In the meanwhile, upon the petitioners surrendering before the trial court, they would be admitted to interim bail till the next date of hearing before this court, on their furnishing adequate bail and surety bonds to the satisfaction of that court.

Since it is the contention of the learned counsel for the petitioners that the petitioners had left village Kaat Majra, Tehsil Behror, District Alwar, Rajasthan, many years ago, and were actually residing in Alwar town itself, the trial court would determine at the first instance as to the source of knowledge of the complainant as regards the petitioners being the residents of Village Kaat Majra, Tehsil Behror, District Alwar, and if the complainant can show that the said address was one that was provided by the petitioners to him, that would be specifically stated by the trial court in its report to be sent to this court before the next date of hearing. If it is found that such knowledge had been provided by the petitioners, the proof of as to since when the petitioners were not residing at that address but at a different address in Alwar town, shall be tried to be determined by calling for evidence in that regard, from the petitioners.

To be shown in the urgent motion list.

Obviously, the said order was passed on the contention of learned counsel that with the petitioners not residing in Village Kaat Majra, Tehsil Behror, District Alwar, Rajasthan, they were not aware of the order passed on 02.02.2017, issuing process (to summon them), upon the complaint having been remitted to the trial Court by the learned Revisional Court, vide an order dated 14.09.2016 (copy Annexure P-3). Though otherwise that would have been also a matter to be proved before the trial Court, yet, in view of the fact that the complaint was of the year 2012 and the petitioner was seeking quashing of the complaint itself (other than the order dated 02.02.2017), the trial Court had been directed to take evidence as regards the petitioner residing in Village Kaat Majra or not.

Pursuant to that order, a detailed report of the learned JMIC, Rewari, dated 26.11.2019, is on record, which at the end states that the complaint having been filed by the complainant on 22.11.2012, with that complaint having been dismissed by the learned trial Court earlier on 09.06.2015, the complainant had filed a revision before the learned Sessions Court, before which Court the petitioners appeared, with the address in the revision petition also having been given as Village Kaat Majra, Tehsil Behror, District Alwar.

Hence, it has been stated by the learned Magistrate that very obviously they were residing at that address at least till 14.09.2016, because the said revision was decided on that date (with them having appeared before that court).

Other than the above, today, learned counsel appears for respondent no. 2 and has produced in Court a photocopy of a petition bearing no.CRM-M-17313-2017, with the memo of parties in that case being as follows:-

1. Sandeep Kumar, son of Kanwar Singh, aged 28 years
2. Kanwar Singh, son of Jai Narain, aged 55 years, Both resident of

Village Kath Majra, Tehsil Behrod, District Alwar.

.....Petitioners.

VS.

1. State of Haryana
2. Bhagmal, son of Mange Ram, aged 25 years, resident of Village Budani, Tehsil and District Rewari.

...Respondents

The prayer in that petition, in the summary clause, is as follows:-

“Quashing Petition under Section 482 Cr.P.C for quashing of Complaint No. 14 of 2012/2014 dated 22.11.2012 under Sections 420/406/34 of the IPC (Annexure-P/5), Order dated 14.09.2016 passed by learned Sessions Judge, Rewari (Annexure P-7) and order dated 02.02.2017 passed by JMIC, Rewari (Annexure P/8), vide which the petitioners have been summoned to face trial in the aforesaid impugned complaint and to quash all other consequent proceedings arising out of the aforementioned complaint.

AND/OR

Further to issue any other order or direction, which this Hon'ble Court may deem fit, just and proper, the peculiar facts and circumstances of the present case, in favour of the petitioner, in the interest of justice.”

The prayer in the present petition, in the summary clause, is as follows:-

“Petition under Section 482 of the Code of Criminal Procedure for quashing of complaint No.

COMI-1857-2013, dated 22.11.2012/23.04.2014 (Annexure P-1) and summoning order dated 02.02.2017 (Annexure P-6) whereby the petitioners have been summoned to face trial under Section 420/34 of the IPC.

AND

For quashing of the order dated 30.08.2017 (Annexure P-8) whereby the petitioners have been declared proclaimed persons.

AND

It is further prayed that during the pendency of the present petition proceedings of the above mentioned complaint in the trial Court may kindly be stayed.

OR

Any other appropriate order or direction, which this Hon'ble Court may deem fit may kindly be passed.”

Confronted with the aforesaid, learned counsel for the petitioners submits that though quashing of the complaint was sought in that petition also (which he submits he, as counsel, was not aware of), the orders challenged were the ones dated 14.09.2016 and 02.02.2017, the former being one passed by the learned Sessions Judge, Rewari, though the latter is the same order as has also been impugned in the present petition.

The said petition, as per learned counsel for the respondent, is still pending before this Court, with the next date of hearing being 20.02.2020.

That fact has been verified by the Reader of this court from the website of this Court, with the last date of hearing in that petition being 17.09.2019.

Even though learned counsel has submitted that the order dated 14.09.2016 not being an order challenged in this petition (which is a subject matter

of the previous petition), it is to be noticed that the petitioners have not even mentioned in the petition that the aforesaid petition has also been filed by them, also seeking (other than quashing of the order dated 14.09.2016), the complaint itself and the order dated 02.02.2017, which prayer has been made in the present petition, to repeat yet again.

Further, as per the report of the learned JMIC, seen with the fact that the petitioners had challenged the order dated 02.02.2017 vide the aforesaid petition in the year 2017 itself, the contention raised before this Court on the last date of hearing, to the effect that the petitioners were not aware of the complaint having been remitted to the trial Court by the learned Sessions Judge vide his order dated 14.09.2016, was obviously a blatant lie on behalf of the petitioners, though they may not have informed their counsel of the same.

Consequently, in view of the above, this petition is dismissed, with the costs of Rs. 50,000/- imposed, Rs. 25,000/- of which shall be paid to the respondent-complainant, and Rs. 25,000/- deposited with the Haryana Legal Services Authority.

The said amount be deposited within a period of one month, failing which proceedings, as per law, be taken against the petitioners.

December 18, 2019
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes