

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.54657 of 2019

Date of Decision: December 20, 2019

Dr. Upender Dublesh & another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sartaj Singh Gill, Advocate,
for the petitioners.

MANOJ BAJAJ, J. (Oral)

Convicts (petitioners) have filed this petition under Section 482 Cr.P.C. seeking quashing of the order dated 29.11.2019 (Annexure P-12), whereby the application filed by them before the Appellate Court to decide the issue of jurisdiction first before hearing the arguments on appeal was declined.

Learned counsel for the petitioners has contended that the issue of jurisdiction goes to the root of the case as the trial Court could not have proceeded with the complaint for lack of jurisdiction and, therefore, the impugned judgment of conviction dated 18.02.2014 was wrongly passed by the trial Court.

During the course of hearing, it is not disputed by the learned counsel for the petitioners that against the judgment of conviction and order of sentence dated 18.02.2014, their appeal is pending before the learned Additional Sessions Judge, Faridabad. The prayer made by the petitioners

for considering the issue of jurisdiction before hearing the appeal on merits is completely misplaced and misconceived, particularly in the light of the order dated 15.05.2019 passed in CRM-M No.34316 of 2017, which was filed by petitioners for quashing of the criminal complaint, summoning order and the judgment of conviction, during the pendency of the appeal and the same was dismissed. The relevant portion of the order dated 15.05.2019 reads as under:-

“During the course of arguments, learned counsel for the petitioners has conceded that appeal against the judgment of conviction dated 18.2.2014 is pending before the Appellate Court. Since the impugned complaint, summoning order and the order framing the charges have merged into the judgment of conviction dated 18.2.2014 and the correctness and the validity of the same is pending before the Appellate Court, it will not be appropriate for this Court to invoke inherent powers under Section 482 Cr.P.C.

Resultantly, the petition is dismissed.”

The above sequel of events clearly indicates that the present petition is nothing but misuse of the process of Court by repeatedly filing the similar petition without any valid cause of action, which is not at all maintainable.

It is needless to mention here that the powers vested with the Appellate Court are wide enough as contemplated under Section 386 Cr.P.C., which is supposed to examine the material issues and evidence on record threadbare to ascertain the validity and correctness of the impugned judgment of conviction.

Resultantly, the petition is dismissed, however, the petitioners are burdened with costs of ₹ 50,000/- to be deposited by them in the

accounts of the District Legal Services Authority, Faridabad.

A copy of this order be sent to the Appellate Court for its compliance.

December 20, 2019
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No