

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 36059 of 2020 (O&M)

Date of decision : 2.12.2020

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Jatinder Kaur Sidhu and another

.....Petitioners

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Anurag Chopra, Advocate
for the petitioner.

Mr. Amit Mehta, Senior Deputy Advocate General,
Punjab.

Mr. Rishu Garg, Advocate for the complainant.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

Petitioners – Jatinder Kaur Sidhu, aged 56 years and her husband Jodh Singh, aged 61 years, both residents of Opposite Court Complex, Gate No.2, Barnala, accused in FIR No. 3 dated 6.6.2017, for offences under Sections 406, 498-A IPC, registered at Police Station NRI District Sangrur, challan against whom has since been filed in the Court, had approached the Illaqa Magistrate, by way of filing an application seeking permission to go to Canada for a period

of one year for the reason that their son is settled there and their visit to Canada is necessary to maintain the status of permanent residents of Canada. Further it is contended that they have got sufficient moveable and immovable properties at village Kalake and Barnala. Their such application was opposed by the State and complainant. Learned Magistrate, vide impugned order dated 27.10.2020 came to the conclusion that since the matter has already been stayed by this Court, therefore, such Court has no power to pass appropriate order in the case. The application was disposed of in that regard.

After going through the impugned order, I find that mainly because of the reason that petition for quashing of the FIR is pending in this Court, in which notice with regard to stay of proceedings is said to have been issued, learned Magistrate, has not become *functus officio* and is not debarred from entertaining and deciding the application. The order so passed is not sustainable and is accordingly, set aside, directing the Magistrate concerned to decide the application on merits, in light of the fact that on earlier two occasions, petitioners had been granted permission to go abroad and they had returned to India well within time.

The parties through counsel, are directed to appear before JMJC Barnala, on 8.12.2020.

Since pleadings are already there before the Court and only arguments are to be heard and this application is required to be disposed of, the whole exercise be completed within a week of the parties putting in appearance before such Magistrate.

A copy of the order be sent to District and Sessions Judge,
concerned, for compliance.

Disposed of.

2.12.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No