

CRM-M-6602-2020

Date of Decision: 29.06.2021

Jatinder Singh Cheema

.....Petitioner

Vs.

State of Punjab

.....Respondents

203-A

CRM-M-13555-2021

Ashwani Kumar @ Neelam Kumar and others

....Petitioners

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ram Parkash Dhir, Advocate,
for the petitioner.

Mr. Sauravh Khurana, D.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

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By this petition, the petitioner seeks the concession of 'pre-arrest bail', upon FIR No. 222 having been registered at Police Station Model Town, District Hoshiarpur, on 21.10.2018, alleging therein the commission of offences punishable under the provisions of Sections 379-B and 411 of the IPC.

On 20.03.2020, i.e. one year and three months ago, the following order had been passed by this court:-

“CRM-10192-2020*Prayer in the application is for placing on*

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record Annexures P-4 and P-5. Application is allowed.

Annexures P-4 and P-5 are taken on record.

Main case.

Learned counsel for the petitioner has submitted that the alleged occurrence is of 19.10.2018 and the FIR Annexure P-1, under Sections 379- B, 411 IPC was lodged after a delay of two days for which there is no explanation. She has further submitted that during the pendency of the trial, the petitioner had been declared Proclaimed Offender. She has relied upon the judgment in Sunil Kumar Vs. State, 2002(1) R.C.R. (Criminal) 119 and submit that since the petitioner had gone abroad, the procedure as laid down in the said judgment was required to be followed before declaring him as a Proclaimed Offender. Moreover, the parties have compromised the matter on 26.02.2020, Annexure P-4.

Learned counsel for the petitioner further submits that petitioner will surrender before the trial court and join the proceedings.

Notice of motion for 08.05.2020.

The petitioner is directed to surrender before the trial Court within a period of three weeks from today and upon his surrender, he will be released on interim bail to the satisfaction of the trial Court.”

Today, upon query to learned counsel for the petitioner as to whether the petitioner has surrendered before the trial court or not, in terms of the aforesaid order, he submits that he went to the trial court to surrender but was told to come during “normal court working times”, i.e. other than during the time of the pandemic.

Upon this court pointing to Mr. Dhir that the order is one year and three months old and in the meanwhile the courts have been functioning

at least to the extent of granting bail or accepting surrenders, there is no answer forthcoming.

That being so, with the petitioner not having surrendered even in one year and three months, despite the aforesaid order of this court directing to surrender him within a period of three weeks from that date, I see no ground to entertain this petition, which is consequently, dismissed.

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On 24.03.2021, the following order had been passed by this court:-

Case heard via video conferencing.

“By this petition, the petitioners seek quashing, on the basis of a compromise arrived at between them and respondents no. 2 to 5, of FIR no. 222, dated 21.10.2018, registered at Police Station Model Town, District Hoshiarpur, for the alleged commission of offences punishable under the provisions of Sections 379-B/411 of the IPC, as also all other subsequent proceedings arising therefrom. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Upon it being pointed out to Mr. Dhir, learned counsel for the petitioners, that as regards petitioner no. 3, Jatinder Singh Cheema, a petition bearing CRM-M-6602-2020 has been filed, in which a direction was issued on 20.03.2020 that he would surrender before the trial court within a period of three weeks from today and upon his surrender he will be released on interim bail to the satisfaction of that court, he submits that that was a petition by which the petitioner seeks to be admitted to anticipatory bail.

Notice of motion.

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Mr. Sandeep Singh Deol, D.A.G., Punjab, accepts notice at the asking of the court on behalf of respondent no.1.

A copy of the petition be emailed to learned State counsel by counsel for the petitioners today itself.

Respondents no. 2 to 5 be served by way of normal process by the next date of hearing.

Adjourned to the same date as fixed in CRM-M-6602-2020.

To be taken up with that case.

In the meanwhile, the petitioners, as also respondents no. 2 to 5, would appear before the learned trial court/Ilaqa Magistrate upto 09.04.2021 to record their statements. The trial court/Ilaqa Magistrate would satisfy itself/ herself/himself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its/her/his report to this court, before the next date of hearing.

That court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this court comes to the conclusion that the FIR sought to be quashed can be so quashed.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases registered against the petitioners of like nature or otherwise.

Again upon query to Mr. Dhir as to whether the statements of the parties had been recorded, he submits that they could not be recorded due to the pandemic.

Upon pointing out to him that no court would have refused to

record the statements as long as the court was at least sitting, he submits that

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he may be allowed to withdraw the petition, with liberty to file a fresh one in case any fresh compromise is reached between the parties.

Dismissed as withdrawn.

June 29, 2021
nitin

Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)
JUDGE
Yes
No.