

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M No.33268 of 2019 (O&M)

Date of Decision:31.08.2021

(Heard through VC)

Ajay Kumar and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Naresh Kaushik, Advocate
for the petitioners.

Mr. A.S. Gill, Sr. DAG, Punjab.

Mr. Umesh Sharma, Advocate
for respondent No.2.

JAISHREE THAKUR, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. for quashing of order dated 23.05.2019 declaring petitioners as proclaimed offenders in Criminal Complaint No.10 dated 01.12.2015 under Sections 406, 498-A, 323, 506, 120-B IPC, Police Station Garhshankar, District Hoshiarpur, as the main case stood dismissed as withdrawn on 11.07.2019.

In brief, facts are that the criminal complaint came to be filed at the behest of Sandeep Kaur-respondent No.2 herein. It was alleged that the complainant Sandeep Kaur was married on 26.12.2011 to Vijay Kumar co-accused. After marriage, the couple resided in Italy where a male child was born. On account of matrimonial differences, Sandeep Kaur returned to India along with the minor child on 22.09.2015 and lodged aforesaid criminal

complaint against her husband Vijay Kumar and other family members.

The petitioners herein are the brother and two sisters of said Vijay Kumar, who are residents of Italy. It is submitted that the complainant did not furnish correct addresses of the petitioners herein, despite the fact that she had knowledge that they were residing in Italy. The address given was local. On account of non-service, petitioners were unable to put in appearance, consequent to which they were declared as proclaimed offenders by an order dated 23.05.2019. During the proceedings of the complaint case, the matter was settled *inter se* the complainant and Vijay Kumar, consequent to which counsel for the complainant suffered a statement that he does not want to proceed with the criminal complaint and that the same may be dismissed as withdrawn. The JMIC, Garhshankar by an order dated 11.07.2019 dismissed the criminal complaint as withdrawn and the accused present before it were acquitted.

Learned counsel appearing for the petitioners herein would contend that once the complaint case itself stood dismissed as withdrawn on statement given in Court, all consequential proceedings therein would also merge with the final order.

Learned counsel on behalf of the respondent-State would submit that the matter stands compromised between the parties and the complaint case stands dismissed as withdrawn.

Counsel appearing on behalf of the complainant makes similar argument, while adding that the complainant would have no objection in case the instant petition is allowed.

I have heard learned counsel for the parties and find that an

attempt was made to serve the petitioners on the address given i.e village Paldi, Tehsil Garhshankar, District Hoshiarpur. In fact, complete address had been given against petitioners No.2 and 3 and they had been reflected only as daughters of Ajit Ram, who is a resident of Village Paldi, Tehsil Garhshankar, District Hoshiarpur. In the opinion of the Court, there was non-compliance of Section 82 Cr.P.C. as no attempt was made to have the petitioners served through Embassy. Apart from that, once a complaint itself stands withdrawn, all interim orders so passed would merge with the final order and therefore, the order declaring petitioners as proclaimed offenders would no longer survive.

Consequently, the instant petition is allowed and the order dated 23.05.2019 passed by the JMIC, Garhshankar declaring the petitioners as proclaimed offenders is set aside.

August 31, 2021
Pankaj*

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No