

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

CRM-M-40878-2020 (O&M)

Date of Decision: 06.01.2021

(Heard through VC)

Gurbax Singh alias Gasia

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Peeush Gagneja, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 54 dated 18.04.2003 registered under Sections 363, 366, 380, 109, 120-B IPC at Police Station Sehna, District Barnala and all subsequent proceedings arising therefrom in view of the compromise.

2. Learned counsel for the petitioner would contend that the petitioner and the daughter of the complainant were well known to each other and wanted to solemnize a marriage which was not agreed to by their family members, due to which, they left their home and went to Shri Nanded Sahib and did not return back to Punjab. Consequently, they were unaware

of the proceedings that had been initiated in the said FIR. Learned counsel would further contend that in fact the complainant had turned hostile and did not support the case of the prosecution and consequently, other persons nominated in the said FIR were acquitted as far back as February, 2003 itself by the Additional Sessions Judge, Barnala. It is only now that the petitioner has been made aware of the fact that proceedings had been initiated against him under Sections 363, 366, 380, 109, 120-B IPC and he prays for quashing of the said FIR on the above said grounds.

3. Notice of motion.

4. Ms. Bhavna Gupta, DAG, Punjab appearing through the medium of video conferencing accepts notice on behalf of the respondent-State and submits that as far back as in 2003 the petitioner herein had absconded and was not traceable, thus he was declared as a proclaimed offender as would be evident from the order dated 01.12.2003 passed by the Additional Sessions Judge, Barnala. It is further contended that the petitioner at the first instance ought to be directed to surrender before the trial Court.

5. Faced with this, learned counsel for the petitioner submits that the petitioner would approach the trial Court and move appropriate application for setting aside the PO order while limiting his prayer for stay of his arrest till he moves the appropriate application.

6. I have heard learned counsel for the parties and have also given careful consideration to the arguments.

7. As per the contention of the counsel for the petitioner, the petitioner was unaware of the proceedings that had been initiated in the

above-said FIR and since the prosecutrix has turned hostile and did not support the version of the prosecution, this Court deems it appropriate to dispose of the instant petition and order to keep the impugned order dated 01.12.2003 in abeyance by staying the arrest of the petitioner for a period of ten days to enable him to appear before the trial Court and move an appropriate application for having the impugned order set aside, which would be considered by the trial Court in accordance with law. He shall be admitted to interim bail to the satisfaction of the Court till disposal of his application qua P.O. proceedings.

8. Ordered accordingly.

9. It is made explicitly clear that in case the petitioner fails to surrender before the trial Court within the specified time, any interim protection allowed to him by this Court shall stand automatically vacated.

06.01.2021

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No