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

**CWP No.22021 of 2021
Date of Decision:29.10.2021**

ROHIT MAHAJANPetitioner
Vs
STATE OF PUNJAB AND OTHERSRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Vikram Chaudhri, Sr.Advocate with
Mr. Keshavam Chaudhri, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

The case has been taken up for hearing through video conferencing.

Petitioner has approached this Court by way of civil writ petition under Articles 226/227 of the Constitution of India. Earlier petitioner has filed CRM-M No.6139 of 2021 for quashing of FIR No.430 dated 16.12.2005 under Sections 406, 498-A IPC, Police Station Sadar, Amritsar along with all consequent proceedings arising therefrom. At that time, petitioner was in abroad.

Learned counsel for the petitioner made a statement that since matrimonial dispute is pending between the parties and the petitioner is sincerely trying to settle the same once and for all. He showed his willingness to return to India and appear

before the concerned Court who had declared him proclaimed person. Learned counsel for the petitioner made a statement that the petitioner was to arrive in India on 26.09.2021. The Co-ordinate Bench, vide order dated 16.09.2021 granted protection from 26.09.2021, till the next date of hearing in order to enable the petitioner to approach the concerned Court. He was directed to appear before the concerned Court within three days from the date of his landing. The petitioner surrendered before the trial Court on 28.09.2021, in compliance of the order dated 16.09.2021 passed by the High Court. The trial Court marked his presence but did not recall the order vide which he was declared as proclaimed person on the premise that the Court has no power to review the order passed by his predecessor Court. CRM No.6139 of 2021 ultimately came for hearing before the Co-ordinate Bench on 11.10.2021 and the same was disposed of by passing the following order:-

“Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

CRM-34116-2021

Allowed as prayed for.

CRM-M-6139-2021

In pursuance to the order 16.9.2021, learned Sr. Counsel submit that the petitioner appeared before the concerned Court on

28.9.2021 and the learned JMIC, Amritsar passed the order dated 30.9.2021. Learned Sr. Counsel would submit that the petitioner has already appeared before the Court and in all fairness he is interested in settling the dispute finally. He would submit that the present petition be disposed of with liberty to avail all the remedies available to him under the law.

In view of the same, the present petition is disposed of with liberty as prayed for.

The protection already granted to the petitioner from being arrested would continue for another 10 days from today. In case of default by the petitioner, the interim protection would stand vacated automatically.

(RAJESH BHARDWAJ)

JUDGE”

11.10.2021

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Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No

Petitioner approached the Court of Additional Sessions, Amritsar against the order dated 30.09.2021 passed by the Judicial Magistrate First Class, vide which the proclamation proceedings were not recalled despite appearance of the petitioner before the Court. Revision petition came up for hearing before the Additional Sessions Judge, Amritsar on 19.10.2021 and the same has been rejected by upholding the order passed by the Judicial Magistrate First Class dated 30.09.2021. The Court also rejected the prayer of anticipatory

bail on the premise that the petitioner is a proclaimed person and indulgence in terms of Section 438 Cr.P.C cannot be granted. So in the light of order dated 11.10.2021, learned counsel submits that petitioner may be permitted to approach the High Court in criminal jurisdiction as the orders dated 16.09.2021 and 11.10.2021 have originated from CRM No.6139 of 2021 and the same has material bearing on the present relief which is sought to be prayed in the present writ petition. In my prima facie view the prayer for withdrawal of present petition in order to approach the High Court by way of criminal miscellaneous is innocuous enough to be accepted at this stage. Petitioner is permitted to file an appropriate petition under Code of Criminal Procedure in the facts and circumstances of the case. It would be appropriate to grant interim protection for 10 days from today, in consonance with the order dated 11.10.2021, earlier passed by the Co-ordinate Bench in CRM No.6139 of 2021.

Disposed of.

(RAJ MOHAN SINGH)
JUDGE

29.10.2021

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Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No