

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

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**CRM-M-49609-2021
Date of Decision : 06.12.2021**

Harwinder Singh @ Harbinder Singh Kaler

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sukhjot Singh, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Umesh Kumar Kanwar, Advocate for the complainant.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 482 of the Cr.P.C for quashing of order dated 21.02.2019 passed by the Judicial Magistrate First Class, Jagraon in cross-version DDR No.15 dated 29.06.2014 registered under Sections 323, 506 & 34 of the IPC in FIR No.111 dated 08.07.2014 registered under Sections 295, 506, 323 & 34 of the IPC at Police Station Sadar Jagraon, District Ludhiana (Rural), by which, the petitioner has been declared as proclaimed offender.

Learned counsel for the petitioner argues that in the facts and circumstances of the present case, declaring the petitioner as proclaimed offender was not at all warranted. Learned counsel for the petitioner submits that an FIR No.111 dated 08.07.2014 under Sections 295, 506, 323 & 34 of

the IPC was registered at Police Station Sadar Jagraon, District Ludhiana (Rural) in which, cross case being DDR No.15 dated 29.06.2014 under Sections 323, 506 & 34 of the IPC was also registered.

Learned counsel for the petitioner argues that after the investigation, the petitioner was found innocent and no challan was submitted against him and, thereafter, the petitioner had left India and went to Canada. Learned counsel for the petitioner submits that the petitioner was summoned as an additional accused to face trial after an application filed by the prosecution under Section 319 Cr.P.C was allowed by the trial Court and as the petitioner was not in India, he has not attended the proceedings despite being summoned by the competent Court of law and was thereafter declared as proclaimed offender. Learned counsel for the petitioner further submits that thereafter, the parties have compromised their dispute amicably and a petition for quashing of FIR as well as cross-case was also filed. Learned counsel for the petitioner submits that as the petitioner was declared proclaimed offender, the said petition was withdrawn so as to enable the petitioner herein to join the proceedings.

Learned counsel for the petitioner submits that keeping in view the fact that the parties have already compromised their dispute and non-joining of the proceedings by the petitioner, keeping in view the facts and circumstances stated hereinbefore was not intentional but, was circumstantial, the petitioner, who intends to join proceedings before the trial Court by surrendering himself, may kindly be protected.

Learned State counsel submits that though, the petitioner is ready to surrender before the trial Court, but, he should have done the same on being summoned by the trial Court.

Learned counsel appearing for the complainant does not dispute the factum of compromise between the parties so as to live peacefully as well as the factum of filing of quashing petition of FIR as well as cross-case on the basis of compromise.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

As the petitioner was initially found innocent by the Investigating Agency and no challan was submitted against him and thereafter, the petitioner had left India and he is yet to come back to India and all the proceedings against the petitioner came into being while he was in Canada, hence, by giving a benefit of doubt to the petitioner, a chance is given to him to surrender himself before the competent Court of law so as to join proceedings as envisaged under the law.

Keeping in view the facts and circumstances, which have been stated hereinbefore, it is directed that in case, the petitioner surrenders before the competent Court of law within next six weeks and join the proceedings, he be admitted on anticipatory bail to the satisfaction of the trial Court.

The present petition stands allowed in above terms.

December 06, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

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