

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

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CRM-M-5427-2020

Date of Decision : **July 21, 2022**

MAHIPAL SINGH AND ANOTHER

.....Petitioners

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. S.K.Khurcha, Advocate
for the petitioners.

JASGURPREET SINGH PURI. J. (Oral)

The learned counsel for the petitioners has submitted that the present petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 16.11.2019 (Annexure P-1) vide which the application filed under Section 317 read with Section 205 Cr.P.C. for dispensing with the personal appearance was dismissed. He submitted that an additional prayer has been made in the petition for quashing of summoning order as well but that is only an inadvertent mistake because they had earlier filed a petition before this Court challenging the same but the same has been dismissed and, therefore, the scope of the present petition may be confined to the extent of granting exemption from personal appearance before the learned trial Court.

The learned counsel for the petitioners has submitted that petitioner No.1-Dr. Mahipal Singh is working as Teacher in New Delhi and the petitioner No.2-Dr. Anil Kumar is working as Teacher in S.D.College, Muzaffar Nagar and they have applied for exemption from

personal appearance in a complaint case against them. He submitted that the petitioners are residents of Meerut and he further submitted that vide impugned order Annexure P-1, their application has been dismissed. He submitted that they have been regularly appearing before the learned trial Court and the distance from Meerut to Gurdaspur is about 500 kilometers and it is inconvenient for them to come and to attend the Court and, therefore, permanent exemption may be granted.

I have heard the learned counsel for the petitioners.

The learned Judicial Magistrate 1st Class, Gurdaspur while passing the impugned order considered the entire factual position and thereafter dismissed the application filed by the petitioners. As per the aforesaid impugned order, the petitioners had earlier also filed an application before the learned trial Court which was dismissed on 16.11.2019 since the petitioners were not on bail and also did not join the proceedings of the Court and, therefore, the application was dismissed. Thereafter another application was filed for grant of permanent exemption. The learned Judicial Magistrate 1st Class, observed that although the petitioners have taken up a plea that they are working as Professors in Government Institution and are residents of UP and they should be exempted permanently from appearing before the Court but the facts of the case suggest that the petitioners have simply stated the aforesaid fact but they have neither specified any institution in which they are teaching nor any document has been placed on record to show that they are Government employees. Apart from the same, earlier also the presence of the petitioners was procured by the Court by issuing non-

bailable warrants and, therefore, the earlier conduct of the petitioners would disentitle them for the grant of permanent exemption.

During the course of the arguments, the learned counsel for the petitioner has referred to Annexures P-3 and P-4 which according to the learned counsel for the petitioners are the certificates that they are Teachers. However, a perusal of Annexure P-3 would show that it appears to be a certificate issued by the South Delhi Municipal Corporation in favour of petitioner-Mahipal which appears to be in the nature of an identity card only and not a certificate since it is specifically stated in Annexure P-3 that it is an identity card. This identity card is of 18.4.2017 and which is almost more than 5 years ago and still the petitioner has not been able to attach any document even before this Court to show that he is working as a Teacher in the aforesaid institution. There is no latest certificate in this regard. A perusal of Annexure P-4 pertaining to petitioner No.2 would show that it is a letter which has been issued by Sanathan Dharam College, Muzaffar Nagar to the DPI by informing that Dr. Anil Kumar has joined on 28.2.2011 in the College. This letter Annexure P-4 is dated 9.3.2011 which is 11 years old and does not signify at all that the petitioner No.2 is still working in that College. No latest certificate has been attached even before this Court.

In view of the aforesaid facts and circumstances, the basic ground taken by the petitioners that they are working as Teachers at Muzaffar Nagar and Delhi respectively and that they should be granted exemption is not sustainable. Even if assuming that the petitioners could not attach any such certificate before the learned trial Court, the same is

the position even before this Court and, therefore, the petitioners cannot be believed that they are working as Teachers. Apart from the same, earlier the learned trial Court had to issue warrants against the petitioners for securing their presence.

Therefore, considering the totality of the circumstance, this Court is of the view that the impugned order passed by the learned Judicial Magistrate 1st Class does not suffer from any kind of illegality or perversity. The present petition is devoid of any merit and consequently dismissed.

July 21, 2022

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**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No