

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

115

CRM-M-9317-2020 (O&M)
Date of Decision: 01.04.2022

Bala Devi ...Petitioner

Versus

State of Haryana & another ...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Shakti Gautam, Advocate, for the petitioner.

Mr. Rahul Mohan, DAG, Haryana.

Mr. Raghav Sharma, Advocate, for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks quashing of order dated 04.01.2020 (Annexure P-3) vide which the trial Court ordered for issuance of warrants of arrest against the petitioner.
2. A few facts necessary to notice for disposal of this petition are that petitioner – Bala Devi was tried by the Court of learned Judicial Magistrate Ist Class, Kurukshetra in respect of FIR No.43 dated 27.04.2010 registered at Police Station Jhansa and was convicted and sentenced vide judgment of conviction and order of sentence dated 21.07.2015 as follows:

Sr. No.	Under Section	Period	Nature	Fine
1.	342 IPC	1 month	R.I.	Rs.500/-. In default of payment of fine to further undergo RI for 7 days.
2.	323 IPC	1 month	R.I.	Rs.1000/-. In default of payment of fine to further undergo RI for 7 days.
3.	506 IPC	1 month	R.I.	Rs.500/-. In default of payment of fine to further undergo RI for 7 days.

3. Upon an appeal having been filed by the petitioner, learned Additional Sessions Judge, Kurukshetra, while upholding the conviction, modified the sentence and ordered for release of the petitioner on probation vide his judgment dated 18.09.2017.
4. However, during the pendency of aforesaid appeal, when the petitioner absented on 17.04.2017, learned Additional Sessions Judge, cancelled her bail and directed the learned Judicial Magistrate Ist Class to initiate action against the petitioner. The said order dated 17.04.2017, as has been annexed with the report of the learned Judicial Magistrate Ist Class, which had been sought by this Court vide order dated 02.03.2020, reads as follows:

“Case has been called up several times since morning, but none has appeared on behalf of the appellant/accused.

Present appeal is against the judgment of conviction and order of sentence dated 21.07.2015 and vide order dated 19.08.2015, sentence awarded to the appellant was suspended during pendency of present appeal and appellant/accused was admitted to bail, but she having absented from court without any intimation and this court having waited for her till 3.30 p.m., bail granted to her is cancelled. Bonds etc. stand forfeited to State.

To come up on 18.09.2017 for arguments on the appeal.

Copy of this order be sent to the court of Shri Ajay Kumar, learned JMIC, Kurukshetra to initiate action against the appellant/convict in accordance with law as now the order dated 19.08.2015 passed by this court no more enures to the benefit of appellant.”

5. It was pursuant to the aforesaid order passed by the Additional Sessions Judge, Kurukshetra that the proceedings for effecting arrest of the petitioner were initiated. In the report furnished by the learned Judicial Magistrate Ist Class, Kurukshetra, it has been stated that the learned Magistrate was never made aware subsequently that the petitioner had been ordered to be released on probation and as such, learned Magistrate continued issuing warrants repeatedly when the same were received back unserved.
6. Interestingly, when the counsel representing the petitioner, namely Mr. Shakti Gautam, Advocate, appeared before the learned Judicial Magistrate Ist Class on 10.10.2018 and got his statement recorded that the petitioner would appear on the next date, even he did not inform the learned Magistrate about release of petitioner on probation. In these circumstances, it goes without saying that the warrants of arrest had initially been issued in compliance of directions issued by learned Additional Sessions Judge and later continued to be issued afresh upon non-execution as Judicial Magistrate Ist Class was never informed about subsequent release of the petitioner on probation.
7. Since the petitioner has already been ordered to be released on probation by the learned Additional Sessions Judge vide judgment dated 18.09.2017, there is no need for securing her presence. As such, the impugned order dated 04.01.2020 (Annexure P-3) is

hereby set aside and the warrants of arrest, if already issued, are
hereby ordered to be withdrawn.

8. Petition stands disposed of accordingly.

01.04.2022

(GURVINDER SINGH GILL)
JUDGE

Vimal

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