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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.15241 of 2022 (O&M)

Date of decision: 21.04.2022

Balour Singh and another

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rishabh Gupta, Advocate
and Mr. Abhishek Sanghi, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing of FIR No.79 dated 23.04.2013 registered under Sections 420, 120-B IPC and 24 of the Immigration Act, at Police Station Sadar Jagraon, District Ludhiana and all other subsequent proceedings arising therefrom.

As per the allegations in the FIR, the complainant Sukhdev Singh, got the impugned FIR registered against 02 persons i.e. petitioner No.1 and accused Jagseer Singh. The rest of the accused including petitioner No.2 were summoned under Section 319 Cr.P.C., by the trial Court.

The primary allegations in the FIR are that the accused persons have taken 12,49,500/- on pretext of sending the complainant abroad after getting him married with an Indian origin Canadian girl. Since the said marriage was never solemnized and the accused persons failed to return the money, the impugned FIR was registered.

Counsel for the petitioner has argued that much prior to the registration of the FIR in the year 2013, petitioner No.1 was in London since 24.01.2011 and the petitioner No.2 has been residing in London since 02.11.2010 and has placed reliance on the passport of both the petitioners to support the contentions.

Counsel for the petitioner has further submitted that since the petitioners were not present at the time of registration of the FIR in India and they were declared as proclaimed offenders, both the petitioners filed CRM-M No.11282 of 2022, praying for quashing of the FIR, which was allowed vide order dated 17.03.2022 with a direction to the petitioners to surrender before the trial Court and the trial Court was directed to release them on bail on deposit of costs of Rs.1.00 lac with the High Court Lawyers Welfare Fund. It is further submitted that both the petitioners have already deposited the costs and have put in appearance before the trial Court.

It is next argued that the recovery suit filed by the complainant Paramjit Singh and Sukhdev Singh against co-accused of the petitioner namely Jagseer Singh as well as petitioner No.1 was dismissed by the Civil Judge vide judgment dated 22.02.2018, holding that the case as set up by the complainant/plaintiff in the civil suit that the defendant/accused promised to get him married with a lady Rajwinder Kaur is not proved and it was also held that the suit is bad for non-joinder of necessary parties.

Counsel for the petitioner has further placed reliance upon the judgment dated 21.03.2021 passed by the Judicial Magistrate Ist Class, Jagraon, vide which 05 of the co-accused of the petitioners

including Jagseer Singh, who was originally named in the FIR and the others, who were summoned under Section 319 Cr.P.C, after facing full length trial were acquitted by the trial Court. While acquitting the co-accused of the petitioner, it was held that the prosecution failed to prove that there was any inducement made by the accused persons to the complainant for parting-ways for solemnizing the marriage with one Rajwinder Kaur and also in view of the fact that under Section 24 of the Emigration Act “*no prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government or such officer as may be authorized by that Government by order in writing in this behalf*”.

Counsel for the petitioner has further argued that in view of the findings recorded by the Civil Court as well as the Judicial Magistrate Ist Class, Jagraon, acquitting the co-accused, there is no possibility for the prosecution to lead any further evidence, which would lead conviction of the petitioner and therefore, no purpose will be served in directing the petitioners to face the trial as they are NRIs and cannot stay in India for a longer time and have also deposited the costs of Rs.1.00 lac with the High Court Lawyers Welfare Fund.

Counsel has lastly placed reliance upon the Division Bench judgment of this court in “***Sudo Mandal @ Diwarak Mandal vs. State of Punjab***” 2011(2) RCR (CrI) 453.

Counsel for the State has not disputed the factual position but opposed the submissions made by counsel for the petitioners.

After hearing the counsel for the parties, considering the fact that 05 of the co-accused of the petitioners have already been

acquitted by the trial Court; both the petitioners have put in appearance before the trial Court and have deposited the costs of Rs.1.00 lac with the High Court Lawyers Welfare Fund in compliance of the order dated 17.03.2022 and in view of the law laid down in *Sudo Mandal's case (supra)*, this petition is allowed and FIR No.79 dated 23.04.2013 registered under Sections 420, 120-B IPC and 24 of the Immigration Act, at Police Station Sadar Jagraon, District Ludhiana and all other subsequent proceedings arising therefrom are ordered to be quashed, *qua* the petitioners.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

21.04.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No