

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(253)

CRM-M-31347-2016 (O&M)

Date of decision: - 25.03.2022

Manish Vij and another

....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sunil Chadha, Senior Advocate,
with Mr. Aditya Sanghi, Advocate,
and Ms. Swati Verma, Advocate
for the petitioners.

Mr. Munish Sharma, Assistant Advocate General, Haryana
for respondent No.1.

Mr. Manav Gupta, Advocate,
Mr. Abhinav Sood, Advocate,
Mr. Sahil Garg, Advocate
and Mr. Ankit Gupta, Advocate
for respondent No.2.

VIKAS BAHL, J. (ORAL)

CRM-22847-2019

Present application has been filed under Section 482 Cr.P.C.
for placing on record the accompanying documents as Annexures P-10 to
P-13.

Application is allowed, as prayed for. The accompanied
documents (Annexures P-10 to P-13) are taken on record, subject to all

just exceptions.

CRM-M-31347-2016

Prayer in the present petition filed under Section 482 Cr.P.C. is for setting aside the order dated 18.12.2015 (P-6), passed by the Judicial Magistrate 1st Class, Bahadurgarh, vide which by invoking the provisions of Section 190(1)(b) of Code of Criminal Procedure, the petitioners have been summoned for the offences punishable under Sections 406, 408, 420, 468 and 471 read with Section 120-B of the Indian Penal Code, 1860, in case arising out of FIR No.109 dated 11.04.2013, registered under Sections 406, 408, 420, 468, 471 and 120-B of the IPC, at Police Station Line Par Bhardurgarh, District Jhajjar, Haryana.

Learned Senior counsel for the petitioners seeks permission of this Court to withdraw the present petition with liberty to the petitioners to take up all the points as raised in the present petition and as are available to them under law, at the time of framing of charges or at any other appropriate stage before the trial Court.

Learned Senior counsel for the petitioners has also submitted that the petitioners would like to move an application before the trial Court, bringing to the Court's notice that a civil suit is pending with respect to the present matter and thus, have prayed that they be permitted to move an application for stay of the proceedings before the trial Court on the ground that the civil suit has been filed and is pending.

Learned counsel appearing for respondent No.2 has submitted that he has no objection in case the petitioners are permitted to

withdraw the present petition with liberty to take up all the points as raised in the present petition and as are available to them under law, at the time of framing of charges or at any other appropriate stage before the trial Court.

Learned counsel for respondent No.2 has further submitted that he has an objection to the second prayer made by learned Senior counsel for the petitioners, inasmuch as, as per him, no such application would be maintainable in law.

In view of the statements made by learned counsel for the parties, the present petition is dismissed as withdrawn with liberty to the petitioners to take up all the points as raised in the present petition and as are available to them under law, at the time of framing of charges or at any other appropriate stage before the trial Court.

With respect to the second prayer made by learned Senior counsel for the petitioners, suffice it is to say, that it is open to the parties to move any application, which they deem appropriate, which, if filed, would be decided in accordance with law.

Learned Senior counsel for the petitioners has further submitted that both the petitioners in the present case are residents of New Delhi, whereas, the proceedings are being conducted at District Bahadurgarh and thus, prays that their personal appearance before the trial Court may kindly be exempted.

Learned counsel for respondent No.2 has very fairly submitted that the personal appearance of the petitioners on account of the said aspect could be exempted, but necessary conditions would need

to be imposed, more specifically, the conditions that the petitioners would not object if the prosecution evidence is recorded in their absence and would not raise a plea at any stage of the proceedings in the trial/appeals/revisions that the evidence was not recorded in their presence or that the proceedings were conducted in their absence. It is also submitted that another condition be imposed that the petitioners would not delay or stall the trial Court proceedings and would not dispute their identities as accused and would appear before the trial Court as and when required by the trial Court.

Keeping in view the fact that the petitioners are residents of New Delhi and also the submissions of both learned counsel appearing for the petitioners and respondent No.2, the personal appearance of the petitioners before the trial Court is exempted, subject to the following conditions:-

- i) Petitioners shall be represented through their counsel;
- ii) shall not delay/stall the trial proceedings;
- iii) shall not dispute their identity as accused;
- iv) shall have no objection if the prosecution evidence is recorded in their absence, but in the presence of their counsel and will never raise a plea either before the trial Court or in appeals/revisions etc. that the prosecution evidence has been recorded in their absence or the proceedings have been conducted in their absence;
- v) shall appear before the trial Court as and when required by the trial Court; and
- vi) any other condition which the trial Court may impose.

Since the matter is of the year 2013, the trial Court is requested to make an endeavour to proceed with the matter as expeditiously as possible.

All the pending application(s), if any, stand disposed of in view of above said order.

March 25, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No