

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

CRM-M-18579-2022

Date of decision: 10.05.2022

Ram Asra

...Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Barjinder Singh, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Challenge in the present petition is to the order dated 06.03.2018 (Annexure P-4) passed by the learned Judicial Magistrate Ist Class, Jalandhar, vide which the petitioner has been declared a proclaimed person in FIR No.247 dated 18.12.2015, registered at Police Station Navi Baradari, District Jalandhar, under Sections 420 and 120-B IPC.

Learned counsel for the petitioner contends that the petitioner alongwith co-accused, namely, Santosh Kumar (his wife) filed the petition i.e. CRM-M-52086-2018, for quashing of the above-noted FIR, on the basis of the compromise effected between the concerned parties; that however, the said petition qua the petitioner was dismissed as withdrawn, vide order dated 28.08.2019 passed by a Coordinate Bench, and at that stage, the petitioner came to know about the impugned order.

Learned counsel further contends that the present FIR pertains to a property dispute; that a compromise was effected between both the accused and respondent No.2 and that in pursuance thereof, the petitioner made the payment of Rs.21 lakh to respondent No.2. He further contends that even otherwise, a suit for specific performance filed by the complainant, has been dismissed as withdrawn.

Notice of motion.

On the asking of this Court, Mr. Ajay Pal Singh Gill, DAG, Punjab, accepts notice on behalf of respondent No.1-State.

At this stage, Mr. Nitin Rampal, Advocate, puts in appearance on behalf of respondent No.2 and does not dispute the fact that the compromise has been effected between the petitioner and respondent No.2 and that he has no objection, if the impugned order is set aside.

I have heard the learned counsel for the parties.

The present FIR pertains to a civil dispute and the matter has been compromised between the accused, including the petitioner, and respondent No.2. On the basis thereof, the suit for specific performance filed by respondent No.2 has already been dismissed as withdrawn and vide order dated 28.08.2019 passed by the Coordinate Bench, the present FIR qua co-accused, Santosh Kumari has been quashed.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua him. The absence of the petitioner before the Court below appears to be non-intentional. If the accused shows his sincere intention

and desire to appear before the Court, then it would be justified to protect him from being arrested.

Though the petitioner absented himself from the court proceedings, yet he is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is disposed of with a direction to the petitioner to surrender before the trial Court/Duty Magistrate, within 15 days from today, subject to him depositing the costs of Rs.10,000/- with the District Legal Services Authority, Jalandhar. On his doing so, the petitioner shall be released on bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

10.05.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No