

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 20903 of 2019
Reserved on 10.03.2022
Pronounced on: 14-03-2022

Vimal Mahajan and othersPetitioners

Vs.

State of PunjabRespondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rahul Sharma, Advocate for the petitioners.

Mr. H.S. Multani, AAG, Punjab.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
382	24.11.2015	Focal Point, District Ludhiana, Punjab	406, 420, 467, 468, 471, 120-B IPC

Criminal Case no. before trial Court	CIS No.BA/421/2019 CNR No.PBLD01-004010-2019 Date of Decision:23.01.2019
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Challenging the proclamation order dated 01.05.2018 passed by JMIC, Ludhiana, vide which the petitioners have been declared as proclaimed offenders, came up before this Court under section 482 CrPC.

2. I have heard learned counsel for the parties and gone through the record.
3. After registration of the FIR, the accused entered into compromise with the complainant and the copy of said compromise is annexed as Annexure P-2. Annexure P-2 clearly reveals that an amount of Rs.20 lacs were paid vide demand drafts wayback on 27.11.2015 alongwith post dated cheques including the interest compounding, as per details in the Paragraph 3 of the compromise. As per paragraph 4 of the compromise, the parties have decided to settle all their disputes and filed a quashing petition.
4. Learned counsel for the petitioners submits that after the accused filed quashing petition before this Court, which registered as CRM-M-8866 of 2020, was taken up for hearing on 02.03.2020 but due to Covid-19 Pandemic, the same was adjourned on administrative side

and has not been taken till date. Learned counsel explains that prior to this compromise, the petitioners had filed the another petition bearing CRM-M No.8715 of 2017 for quashing of FIR. After filing of the said petition, the accused were under the impression that since the matter has been compromised and quashing petition has been filed as such there is no need to appear before the learned trial Court. Before the compromise petition was decided by this Court, learned trial Court vide order dated 01.05.2018 Annexure P-3 declared the accused/petitioners as proclaimed offenders after cancelling their bonds. After that when the compromise matter was taken up by the Court, the petitioners withdrew the same because the accused had been declared as proclaimed offender and their bail bonds were cancelled and forfeited.

5. As per paragraph 9 of the petition, the entire amount which was mentioned in the FIR has been paid back by the petitioners to the complainant.

6. Now challenging the impugned order dated 01.05.2018 passed by learned trial Court, the accused have come up before this Court under Section 482 Cr.P.C. for its quashing.

7. The State was duly represented and the contents of the petition have not been refuted. A perusal of the entire petition reveals that the accused had paid huge amount of Rs.20 lacs by way of demand draft and handed over the Post Dated Cheques for the remaining amount. After that the quashing petition was filed which was registered as CRM-M-8175 of 2017 however, before this quashing petition was taken up on merits, the accused have been declared and proclaimed offender and the petitioners withdrew the petition with liberty to file fresh one.

8. Subsequently, they have entered into a fresh compromise and filed petition CRM-M-8822-2020. Since the accused had been declared as proclaimed offender, the matter is hanging fire. A perusal of the petition reveals that the petitioners were in *bonafide* belief that once they have paid the entire amount and have also filed quashing petition as such there was no necessity to appear before the trial court. Such belief cannot be stated to be an afterthought or wilful intention to avoid criminal history. Even if they had attended the Court, given the compromise in a compoundable offence, the trial Court had no other option but to close the proceedings. Consequently, in the entirety of the facts and circumstances peculiar to this case, the explanation offered by the petitioners well form founded and is accepted.

9. Accordingly, the Proclamation order dated 01.05.2018 Annenxure P-3 passed by JMIC Ludhiana is hereby quashed and set aside. All the arrest warrants are also cancelled, the parties are directed to attend the trial Court on each and every date till the acceptance of the quashing petition by this Court or the completion of the trial, whichever is earlier.

There would be no need for a certified copy of this order and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the

authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy.

Petition allowed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

March 14, 2022
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Whether speaking/reasoned: Yes
Whether reportable: No.