

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

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CRM-M-26845-2020 (O&M)

Date of Decision: 16.03.2022

Dinesh Kumar & others

...Petitioners

Versus

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Y.S.Rathore, Advocate, for the petitioners.

Mr.Rahul Mohan, DAG, Haryana.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioners seek quashing of FIR No.1146 dated 14.09.2019 registered at Police Station City Jagadhri, Tehsil Jagadhri, District Yamunanagar under Section 174-A of Indian Penal Code and also setting aside of order dated 17.08.2019 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri vide which the petitioners were declared as proclaimed offenders.
2. At the time of issuance of notice of motion on 09.09.2020, this Court passed the following order:

“The petitioners seek quashing of FIR No.1146 dated 14.09.2019 registered at Police Station City Jagadhri, Tehsil Jagadhri, District Yamunanagar under Section 174-A of Indian Penal Code and also for quashing of order dated 17.8.2019 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri vide which the petitioners were declared as proclaimed offenders.

The learned counsel for the petitioners submits that the petitioners had raised an education loan of Rs.2.10 lakhs from the complainant-bank i.e. Oriental Bank of Commerce for the purpose of meeting with education expenses of petitioner No.1-Dinesh Kumar. Later, on account of some

delay in repayment of loan and on account of dishonour of a cheque in question for Rs.64,000/-, the complainant-bank instituted a complaint under Section 138 of Negotiable Instruments Act by mentioning addresses of the petitioners/accused as residents of Village Nagla Jagir, P.O.- Pabni Kalan, Tehsil Jagadhri, District Yamunanagar. Since, the petitioners could not be served at the given address, the petitioners came to be declared as proclaimed offenders resulting in lodging of FIR No.1146 dated 14.9.2019 at Police Station City Jagadhri, Tehsil Jagadhri, District Yamunanagar under Section 174-A of Indian Penal Code.

The learned counsel for the petitioners has submitted that infact petitioner No.2-Inder Sain i.e. father of petitioner No.1-Dinesh Kumar and husband of petitioner No.3-Smt. Jawantri, is working in Health Department and had been allotted a government residential accommodation vide order dated 8.3.2016 (Annexure A-12) and had shifted from the Village Nagla Jagir to City Yamunanagar on account of which they could not be served on the basis of summons sent at their village address. The learned counsel has further submitted that, in any case, after the petitioners came to know about filing of the complaint, the entire dues of the complainant-bank have since been cleared and the matter has been compromised and the complainant-bank has already withdrawn the complaint in question.

Notice of motion for 15.10.2020.

Meanwhile, no coercive action be taken on the basis of order dated 17.8.2019 (Annexure P-1) or FIR No.1146 dated 14.9.2019.”

3. Learned counsel for the petitioners has vehemently argued that it is a case where the summons/warrants have been sent at their previous place of residence i.e. at Village Nagla Jagir, P.O.- Pabni Kalan, Tehsil Jagadhri, District Yamunanagar, whereas the petitioners had moved from the said premises to a government residential accommodation in City Yamunanagar, as had been allotted to petitioner No.2 – Inder Sain vide

office order dated 08.03.2016 (Annexure - A) since he is working in Health Department, Government of Haryana.

4. On the other hand, the State has filed its reply, but no specific reply to the aforesaid assertions is forthcoming.
5. Since the petitioners in order to support their assertion have also annexed office order dated 08.03.2016 (Annexure A) clearly indicating that the House Allotment Committee had allotted Quarter No.55, Class IVth, Canal Colony, Jagadhri to petitioner No.2 and as per the specific averments made in the petition that the petitioners had moved in the said premises on 08.03.2016 and the State has not been able to dispute the said office order, this Court finds that the petitioners have not been residing at the address mentioned in the summons/warrants or where the proclamation had been effected, as would be evident from Annexures P-7 to P-21. In any case, even the criminal complaint during the pendency of which the petitioners were declared proclaimed offenders, already stands withdrawn.
6. In view of the aforestated position, the impugned order dated 17.08.2019 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhari, declaring the petitioners as proclaimed offenders cannot sustain and is hereby set aside. Consequently, FIR No.1146 dated 14.09.2019 registered at Police Station City Jagadhri, Tehsil Jagadhri, District Yamunanagar under Section 174-A of Indian Penal Code also deserves to be quashed and is hereby quashed.

7. The petition stands accepted accordingly.

16.03.2022

(GURVINDER SINGH GILL)
JUDGE

Vimal

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No