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

**LPA-669-2022 (O&M)
Date of decision : 16.09.2022**

JASWINDER SINGH

..... APPELLANT

VS

UNION OF INDIA AND ANR.

..... RESPONDENTS

**CORAM : HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR.JUSTICE ALOK JAIN**

Present :- Mr. Sarju Puri, Advocate for the appellant.

Mr. Satyapal Jain, Additional Solicitor General of India with
Ms. Shweta Nahata, Advocate
for the respondents.

Mr. Vishnav Gandhi, DAG, Punjab.

AUGUSTINE GEORGE MASIH, J. (Oral)

CM-1885-LPA-2022

This is an application for placing on record the additional affidavit of attorney of petitioner namely, Bhajan Kaur wife w/o Late Gurbaksh Singh as also the judgment dated 02.04.2007 passed by Ld. Additional Sessions Judge, Nawanshahar.

Application is allowed as prayed for subject to all just exceptions. Affidavit dated 13.09.2022 and the judgment of the Ld. Addl. Sessions Judge, Nawanshahar dated 02.04.2007 (Annexure A-1) are taken on record.

CM-1886-LPA-2022

Prayer in this application for impleading State of Punjab and Regional Passport Officer, Jalandhar as respondent respondents No.3 and 4, respectively.

For the reasons mentioned in the application, prayer made in the application is accepted. State of Punjab through Secretary Department of Home Affairs, Punjab, Civil Secretariat, Chandigarh and the Regional Passport Officer, Jalandhar are impleaded as respondents No.3 and 4. Amended memo of parties appended along with the application is taken on record.

LPA-669-2022

Notice of the appeal to the newly added respondents.

Ms. Shweta Nahata, Advocate, accepts notice on behalf of the respondents No.3 and 4.

On 16.08.2022 when the case had come up for consideration, following order was passed:-

“It is the contention of learned counsel for the appellant that mere registration of an FIR or the pendency of the case cannot by itself be a bar for denying the issuance of a passport. As far as the appellant is concerned, as of now, cognizance has not been taken by the Court and in any case, he contends that the co-accused of the appellant, after the trial, has been acquitted by the trial Court. Assertion has also been made that a petition has been preferred by the appellant for quashing of the FIR, which is pending before this Court apart from the aspect that the proceedings declaring the appellant as a proclaimed offender stands quashed by this Court vide order dated 08.02.2022 (Annexure P-3) in CRM-M No.39903 of 2021 titled as
Jaswinder Singh Versus State of Punjab and another.

Notice of motion.

*Respondents be served through learned Additional Solicitor General of India for **05.09.2022**".*

In pursuance to the said order Mr. Satyapal Jain, Additional Solicitor General of India, has put in appearance on behalf of respondents No.1, 2 and 4. Counsel for the State of Punjab has also put in appearance on asking of the Court today.

Having considered the facts and circumstances of the present case and specially the judgment dated 02.04.2007 passed in FIR No.146 dated 06.06.2005, Police Station Nawanshahar, under Section 304-B/34 of IPC, where the co-accused of the applicant-appellant have been acquitted, rather, no challan was presented against the appellant although he was also arrayed as an accused. The said registration of an FIR, therefore, has no effect with regard to the claim of the appellant for grant of passport.

Another aspect, which has been taken against the appellant is that there is an FIR registered against some un-known person i.e. FIR No.68 dated 06.07.2013 (Annexure P-1) under Section 353, 186, 332, 148, 149 IPC and Section 3 of Prevention of Damage to Public Property Act, 1994, Police Station Sadar Nawanshahr, District SBS Nagar. The same would also not be an impediment as although he had been declared a proclaimed offender in the said case but the said proceedings as well as the proclamation have been quashed by this Court vide order dated 08.02.2022, Annexure P-3 in CRM-M-39903-2021 titled as "***Jaswinder Singh Versus. State of Punjab and another.***" The effect, therefore, of the said FIR also would not in itself, *ipso facto* have any effect with regard to the reason for not issuing a passport to the appellant in the light of the provisions of Section 6(2)(f) of the Passport Act, 1967.

Mere registration of the criminal case in itself would not be enough for denying a person for issuance of the passport, unless some proceedings are pending before the Court. This being the factual position as far as the appellant is concerned, we do not find any impediment which would deny the issuance of a fresh passport to the appellant as it is asserted that he has lost his original passport, for which he had applied for issuance of a fresh one, which has not been issued because of the objections raised by the Police Department, State of Punjab.

In the light of the above, the present appeal is allowed. Direction is issued to the competent authority to issue the fresh passport to the appellant, at the earliest as it has been pointed out that he is facing possibility of the deportation.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ALOK JAIN)
JUDGE

16.09.2022
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Whether speaking/reasoned Yes/No

Whether Reportable Yes/No