

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

CRM-M No.46555 of 2022

Date of decision: 27th October, 2022

Bagh Ali @ Lambru & others

... Petitioners

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Lakhwinder S. Lakhanpal, Advocate
for the petitioners.

Mr. Teevar Sharma, Asstt. Advocate General, Punjab
for respondent No.1/State.

MANJARI NEHRU KAUL, J. (ORAL)

This is third petition filed by the petitioners under Section 438 Cr.P.C. in case bearing FIR No.28 dated 30.04.2019 under Sections 363, 366, 436 & 427 IPC registered at Police Station Sujanpur, District Pathankot.

Mr. Deepak Hilori, IPS, SSP Gurdaspur has come present as SSP Pathankot is on Ex-India Leave, and has apprised the Court that the investigation in the case has been hampered as the petitioners have been evading arrest. He has further apprised the Court that despite strenuous efforts, the police have been unable to apprehend the petitioners and hence, proceedings under Section 82 Cr.P.C. have been initiated against them.

Learned counsel for the petitioners however, submits that the parties have arrived at an amicable settlement and hence no useful purpose would be served in subjecting the petitioners to custodial interrogation.

It would be pertinent to point out that this is the 3rd petition filed by the petitioners under Section 438 Cr.P.C. A perusal of order dated 15.01.2020 (Annexure P-4) passed by this Court while dismissing the 1st petition filed by the petitioners under Section 438 Cr.P.C. reveals that repeated opportunities to the petitioners to join investigation were given. However, they failed to join investigation, as a result of which their petition was dismissed. Thereafter, the petitioners filed a second petition under Section 438 Cr.P.C. which was withdrawn on 11.02.2022 vide Annexure P-6.

A pointed query was put to the learned counsel for the petitioners qua the maintainability of a 3rd petition under Section 438 Cr.P.C. especially when the first petition seeking similar relief had been dismissed by this Court and still further, as to what was the material change in the circumstances subsequent to the dismissal of the 1st petition under Section 438 Cr.P.C. on 15.01.2020. The learned counsel was however, unable to satisfy this Court qua the same.

This Court is not, thus, inclined to entertain the instant petition since there is no material change in circumstances. This Court cannot also turn a blind eye to the fact that the petitioners have been

absconding for more than 3 years without any justifiable reason, coupled with the fact that proceedings under Section 82 Cr.P.C. stand initiated against them. In the circumstances, there being no merit in the instant petition, the same stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

October 27, 2022
rps

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