

CRM-M-925-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(105)

CRM-M-925-2022.

Date of Decision:-02.02.2022.

Iqbal Singh

.....Petitioner

Versus

The State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Amaninder Singh Sekhon, Advocate for the petitioner.

Mr. Harmandeep Singh Sullar, DAG, Punjab.

(Through Video Conferencing)

SURESHWAR THAKUR, J. (Oral)

1. Accused Jagdev Singh, Gurmail Singh and Jaswant Singh are alleged to commit an offence, under Section 302 IPC. The offence (supra) is carried in FIR No.45 of 20.03.2017, registered in Police Station City Faridkot.

2. From the amongst the above-named accused, all except one Jagdev Singh, are recording their respective personal appearances before the learned Additional Sessions Judge concerned. However, co-accused Jagdev Singh is residing in Canada, and, despite all the relevant processes becoming initiated by the prosecution and, also, by the learned trial Court concerned, for ensuring his recording his personal appearance before the learned trial Court, for his facing a charge along with other co-accused, for an offence under Section 302 IPC, yet the above named accused has failed

to travel to India to face the above charge.

3. It is clear from Annexure P-2, that the proclamation notice was validly served upon accused Jagdev Singh in Canada. However, as afore-stated he has not yet travelled to India to face hence along other co-accused, a charge qua commission of an offence under Section 302 of IPC. Though there is failure on the part of accused Jagdev Singh to appear before the learned trial Judge, for the relevant purpose, and, through only on his appearing before the trial Judge concerned, rather prima facie, the trial Court may become facilitated to open the trial against even the appearing co-accused concerned. Nonetheless, the afore impediment, can become mitigated, through the learned Additional Sessions Judge proceeding to draw proceedings under Section 299 Cr.P.C., against absenting accused one Jagdev Singh, and, also through the learned trial Judge concerned, proceeding to open trial with respect to a charge under Section 302 IPC, hence, against the appearing accused concerned. The afore legal recourse may preclude the untenable legal consequence, of the trial as arises from FIR supra, becoming stalled merely for non-appearance of co-accused Jagdev Singh, who despite all the relevant processes becoming initiated, and, concluded, rather for securing his personal appearance before the learned trial Judge concerned, has not caused his personal appearance therebefore.

4. Though through the instant petition, the complainant claims that the prosecution be directed to ensure the initiation, and, conclusion of the extradition process with Canada. However, the jurisdiction to make the above prayer vests only in the learned trial Judge, and, it is at this stage not vested in this Court. Therefore, the above made prayer is misconstituted,

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and, at this stage, is not maintainable before this Court.

5. The petition is disposed of with the above-made observations/ directions, to the learned trial Judge concerned, and, also the Public Prosecutor is directed to initiate with the Ministry of External Affairs, South Block, New Delhi, hence processes for ensuring the extradition of co-accused Jagdev Singh from Canada to India. The afore process be ensured to be completed within four months.

(SURESHWAR THAKUR)
JUDGE

February 02, 2022.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No