

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

CR No. 4938 of 2022

DATE OF DECISION :- November 23, 2022

Surjit Singh

...Petitioner

Versus

Jasbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Kushagra Mahajan, Advocate for the petitioner.

Revisionist Surjit Singh, who is one of the defendants in the civil suit filed by plaintiff Jasbir Singh pending before Civil Judge, Junior Division, Amritsar is feeling aggrieved by the order dated 30.9.2022 vide which his application that the affidavit submitted by Kulwant Singh as attorney of plaintiff Jasbir Singh be struck off from the file and may not be considered as evidence for the reason that Jasbir Singh, presently residing in Spain has been declared a proclaimed offender in F.I.R No. 98 dated 21.8.2008 for offences under Sections 420, 466 IPC registered with Police Station Kathunangal, Amritsar. According to the applicant, a proclaimed offender cannot appoint any attorney and such attorney cannot put in appearance on his behalf and give evidence.

The said application was contested on behalf of plaintiff Jasbir Singh contending that Jasbir Singh lastly came to India in the month of December, 2005 and then went abroad in January, 2006. The F.I.R in question was registered during his absence from India and he was not aware of the same. Further more, proceedings before the criminal Court are independent of the proceedings in civil suit, therefore, application be dismissed.

After hearing arguments, the trial Court vide impugned order had dismissed the application. The operative part of the impugned order is as follows :-

“Arguments heard. Perusal of file reveals that counsel for the applicant has placed on record copy of FIR No. 98 dated 21.8.2008 under Section 420, 466 IPC against Jasbir Singh and Rattan Singh in which Jasbir Singh has been declared as proclaimed offender on 5.3.2009. Further, the counsel for applicant has relied upon the judgment of Hon'ble Punjab and Haryana High Court titled as 'Malook Singh versus State of Punjab and another', 2013(4) RCR (Criminal) 238 and 'Sarabjit Singh versus State of Punjab and another' 2021(4) RCR (Criminal) 87. However, the judgments relied upon by the applicant are not applicable in the present suit as in those judgments, the accused/applicant sought for quashing of FIR, quashing of order declaring him proclaimed offender through special power of attorney. However, in the present case it is not the situation as mentioned above. The present case deals with the suit for declaration and permanent injunction in which special power of attorney can contest the suit. Moreover, there is no such provision which debars a person who has been declared proclaimed offender from pursuing the civil suit through special power of attorney. Hence, in view of arguments and documents placed on record, the present application stands dismissed. Now, to come up on 6.10.2022 for plaintiff evidence.”

The said order is being challenged by the revisionist defendant.

I have heard learned counsel for the petitioner besides going

through the record.

I find the impugned order to be quite detailed, well reasoned, not suffering from any illegality or infirmity. The plaintiff may be involved in a criminal case but that does not debar him from executing power of attorney in favour of a person and seeking his civil remedy in the Court of law. The application filed by the revisionist defendant before the trial Court was totally misconceived and was rightly dismissed. There is no reason to interfere with the impugned order.

The Revision Petition is found to be without merit and is dismissed accordingly.

(H.S. MADAAN)
JUDGE

November 23, 2022
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No