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

CRM-M-11336-2018

Date of Decision:18.05.2023

ANU VERMA AND ANR.

..... Petitioners

*Versus***STATE OF PUNJAB AND ANR.**

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ashani Katter, Advocate for
Mr. L.M. Gulati, Advocate
for the petitioners.

Ms. Guramrit Kaur, DAG, Punjab
assisted by ASI Balraj Singh.

Mr. A.P. Kaushal, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Section 482 Cr.P.C. are seeking quashing of FIR No.56 dated 15.09.2014 (Annexure P-1), under Section 376 of IPC and Section 4 of POCSO Act, 2012 (Sections 328, 420, 467, 468, 471, 506 and 120B of IPC were added later on), registered at Police Station Daresi, Ludhiana District Ludhiana and all other consequential proceedings are hereby quashed qua the petitioner (s).

2. The brief facts of the case which are necessary for adjudication of present case are that petitioner No.1 is sister of main accused Pawan Dhir and petitioner No.2 is family friend of Pawan Dhir. Mother of complainant namely Jeewan Bala sold three shops situated at Meena Bazar, Ludhiana in lieu of Rs.38 lacs to Pawan Dhir (brother of

petitioner No.1). Pawan Dhir had purchased aforesaid shops in the name of his wife Seema Dhir, his sister Anu Verma (petitioner No.1) and Rashmi Sachdeva (petitioner No.2) being a family friend of Pawan Dhir. Mother of complainant after accepting consideration of Rs.38 lacs with respect to sale of aforesaid shops started asking for more money. The complainant with intent to take benefit of laws relating to sexual offences, lodged FIR by misguiding the prosecutrix.

3. Learned counsel for the petitioners *inter alia* contends that vide judgment dated 02.02.2023 passed by Additional Sessions Judge, Ludhiana main accused stands acquitted. He further submits that vide order dated 26.02.2018, FIR *qua* two accused namely Kasturi Lal Dhir and Chand Rani Dhir w/o Kasturi Lal Dhir stands quashed by this Court in CRM-M-19855 of 2015. The allegations made against the petitioners are identical as against other accused, thus, continuation of trial against the petitioners would amount to abuse of process of law and wastage of valuable time of Courts.

4. Learned counsel for respondent No.2 expressed his inability to controvert afore-stated factual position. He concedes that main accused stands acquitted by Sessions Court and FIR *qua* two accused stands quashed by this Court.

5. I have heard the arguments and perused the records.

6. A two judge Bench of this Court while acquitting appellants therein has adverted with status of co-accused in ***Sudo Mandal @ Diwarka Mandal vs. State of Punjab 2011(2) R.C.R.(Criminal) 453*** and has held:

“22. While disposing of these two appeals, we
are very much concerned about the absconding village

rustic accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal, who had successfully evaded the dragnet of the police. The Investigating agency has put up a case implanting eye witnesses as against all the accused. Both the eye witnesses projected by the prosecution had not passed the test of trustworthiness. Their own showing would go to establish without any pale of doubt that they could not have witnessed the occurrence. The other materials produced by the prosecution also did not advance the case of the prosecution any further. The above facts and circumstances have persuaded us to come to a definite conclusion that the accused in this case were not the perpetrators of crime of murder as alleged by the prosecution. The same set of materials would be produced before the Sessions Court on production of the remaining three accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal. After all the poor innocent labourers had migrated to other places to eke out their livelihood. The appellants herein had in fact suffered imprisonment for such a long time leaving behind their kith and kin, who might have been in dire need of financial support and help from them. Such an unpleasant situation shall not be created for the other three accused against whom also there is no material on record to fasten them with the charge of murder. We seriously pondered over rendering judicial succour to those faceless and voiceless accused who had taken to heels and hidden themselves apprehending the wrath of criminal proceedings for the heinous crime of murder. We are convinced that our judicial arm is not so crippled as to betray the vague hope of the hopeless.

23. We are conscious of the fact situation that those three accused namely Radha Mandal, Rajiya Mandal

and Sambodh Mandal had absconded and were declared as proclaimed offenders. They had not faced the trial, but when we find that no case could be made out as against them also with the very same rickety materials, those accused also will have to be relieved of the impending pain of facing the prosecution for murder. Section 482 of the Code of Criminal Procedure reads as follows:-

“Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

24. The above provisions recognize the inherent powers of the Court to do real and substantial justice, preventing the abuse of the process of the Court. The statutory recognition of the inherent jurisdiction of the criminal Court indicates that there is a power for the criminal Courts to make such an order as may be necessary to meet the ends of justice. We are conscious of the fact that the powers under Section 482 of the Code of Criminal Procedure are to be exercised very sparingly and in exceptional cases where abuse of the process of the Court would result in serious miscarriage of justice. The inherent powers of the Court should not be exercised to stifle legitimate prosecution. But at any rate the settled position is that this Court has the jurisdiction to quash the entire criminal proceedings to prevent the abuse of the process of the Court in order to secure the ends of justice. In our considered view the same inherent powers can be exercised when this Court finds that the innocent accused, who had absconded would simply

face the empty formality of trial with the very same unbelievable and untrustworthy evidence, which would ultimately lead to their acquittal. Bringing the absconding accused to face the trial in this case in the above facts and circumstances would amount to abuse of the process of the Court. To secure the ends of justice, we hereby quash the entire proceedings as against the absconding accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal pending before Judicial Magistrate Ist Class, Bathinda/Sessions Judge, Bathinda, as no useful purpose will be served even if they are procured and ordered to face the trial in this case.”

7. A single judge bench of Karnataka High Court in ***Salman @ Shameer Vs State of Karnataka (W.P. No. 25286 of 2018 (GMRES). D/d. 13.7.2018)*** has held:

5. In another decision reported in 2002 (1) KCCR 1 in the case of Muneer Ahmed Qureshi, Muneer @ Gaun Muneer v. State of Karnataka by Kumaraswamy Layout Police, wherein this Court has held that:

"Entire case of the prosecution as against six accused is practically inseparable and individual one and especially when the Judgment of acquittal is passed, when P.W. 1 denies the entire incident or the role of the accused. This reasoning of acquittal would also definitely enure to the petitioner. Even if the petitioner is tried there cannot be any other material other than what is already produced and considered by Trial Court. In such circumstances it will be an exercise in futility to make the petitioner to undergo the ordeal of

crime, and then to be acquitted. Holding that the proceeding against the accused person who was absconding and subsequently against whom a split up charge sheet was filed was quashed.”

6. *In the above said backdrop and the dictum of the Hon'ble Apex Court and this court, the only point that requires for consideration of this court is -*

"Whether the materials placed before the court against the accused person who has already acquitted and the material available against the petitioner herein, are one and the same and inseparable if juxtapose compared with each other".

7. *If the allegations are indivisible and inseparable in nature, in such an eventuality, the judgment of acquittal can also be extended to the absconding accused persons or against whom, a separate split up charge sheet has been filed. Therefore, it is incumbent upon the court to examine the materials on record to find out whether the petitioner is entitled for such benefit in a given particular case. Therefore, it is just and necessary to ascertain the factual aspects of this case.”*

8. In the case in hand, the role attributed to the petitioner is almost identical to the role of the co-accused. The main accused i.e. brother of the petitioner No.1 and friend of petitioner No.2 stands acquitted by Trial Court vide judgment dated 02.02.2023 and FIR against co-accused stands quashed by this Court vide order dated 26.02.2018 in CRM-M-19855-2015.

9. In view of above noted peculiar facts and circumstances of the case and applying the principles laid down judgment of this court in

Sudo Mandal (supra) and judgment of Karnataka High in Salman @ Shameer (supra), this court is of the considered opinion that it would in the fitness of things and interest of justice if present petition is allowed and accordingly allowed.

10. FIR No.56 dated 15.09.2014 (Annexure P-1), under Section 376 of IPC and Section 4 of POCSO Act, 2012 (Sections 328, 420, 467, 468, 471, 506 and 120B of IPC were added later on), registered at Police Station Daresi, Ludhiana District Ludhiana and all other consequential proceedings are hereby quashed qua the petitioner (s).

(JAGMOHAN BANSAL)

JUDGE

18.05.2023

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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>