

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

**CRM-12350-2022 in/and
CRM-M-11169-2020**

Date of Decision: February 08, 2023

Paramjot Singh Dhaliwal

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Shubreet Kaur, Advocate for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

Mr. Naresh Chand, Advocate for respondent No.2.

DEEPAK GUPTA, J.(Oral)
CRM-12350-2022

Application is allowed as prayed for.

Reply by way of affidavit of respondent No.2 is taken on record.

Main Case

By way of this petition filed under Section 482 Cr.P.C., prayer is made to quash FIR No.123 dated 29.05.2013, registered at Police Station Dakha, District Ludhiana Rural, under Sections 420, 120-B and 506 of IPC (Annexure P-1); summoning order dated 24.09.2015 (Annexure P-6) under Section 319 Cr.P.C. qua petitioner; and all the consequential proceedings emanating from the said FIR.

2. FIR was lodged on the complaint of one Bhupinder Singh, as per which he had been cheated of ₹8.5 lacs in 2008 by Ramandeep Kaur, Param Singh (petitioner), Gurkamal Singh; and Smt. Binder Kaur on the pretext of sending his son to Italy. Neither her son was sent abroad nor the money was returned. During investigation, Jaswinder Kaur @ Binder Kaur was arrested. Gurkamal Singh and Reet Mohinder Kaur were found

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to be absconding; whereas Paramjot Singh Dhaliwal (petitioner) was found to be residing in Canada.

3. As per petitioner, complainant Bhupinder Singh entered into a compromise with Gurkamal Singh and after receiving the amount gave an affidavit Annexure P-3 to the effect that nothing was due against anyone and so, case may be filed and that he did not want any action. After this compromise and on the representation by Gurkamal Singh, cancellation report (Annexure P-4) was filed on an inquiry conducted by the Superintendent of Police. All the four persons named in the FIR were declared innocent. However, challan was recommended to be filed against Ajeetpal Singh @ Harjit Pal Singh and Jeet Kaur w/o Nachhattar Singh. As complainant Bhupinder Singh gave affidavit that compromise had been effected with Ajeetpal Singh @ Harjit Pal, so cancellation report was recommended. Jaswinder Kaur @ Binder Kaur arrested earlier, was sought to be discharged.

4. However, trial commenced against Jaswinder Kaur @ Binder Kaur, during which complainant Bhupinder Singh appeared as PW1 and supported the FIR version. Annexure P-5 is his statement. Based thereon, an application under Section 319 Cr.P.C. was moved by the prosecution. Gurkamal Singh, petitioner Paramjot Singh Dhaliwal and Reet Mohinder Kaur were summoned, vide order dated 24.09.2015 (Annexure P-6) by learned Trial Court to face trial along with Jaswinder Kaur @ Binder Kaur. Gurkamal Singh and Reet Mohinder Kaur filed a criminal revision bearing CRR No.1653 of 2016 before this Court assailing the order 24.09.2015 (Annexure P-6) qua them and the said revision was accepted vide order dated 24.01.2017 and the impugned order dated 24.09.2015

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(Annexure P-6) was set aside qua the petitioners of that revision. Petitioner was in Canada at that time. In the meantime, trial against Jaswinder Kaur @ Binder Kaur concluded and she was acquitted of all the charges leveled against her, vide judgment dated 09.10.2018 (Annexure P-8) passed by learned Judicial Magistrate 1st Class, Ludhiana.

5. Petitioner contends that all this while, he was in Canada. He came to India on 14.01.2020 and came to know about the criminal proceedings against him. It is in his absence that proclamation proceedings were initiated against him despite the fact that Investigating Agency was well aware that he (petitioner) was in Canada as reflected in challan dated 27.07.2013 (Annexure P-2) and so proclamation proceedings are *non est* in law. Application for anticipatory bail filed by the petitioner was allowed by learned Addl. Sessions Judge, Ludhiana, vide order dated 10.02.2020. It is contended that in all these circumstances, FIR in question and the impugned order dated 24.09.2015 summoning him under Section 319 Cr. P.C. and all the subsequent proceedings are liable to be quashed.

6. After hearing learned counsel for the parties and having perused the record, this court finds merit in the submissions made by the petitioner.

7. It is not disputed that case of the petitioner is on parity with Reet Mohinder Kaur and Gurkamal Singh, who were also summoned under Section 319 Cr.P.C. vide the same impugned order dated 24.09.2015 (Annexure P-6). The criminal revision filed by said Gurkamal Singh and Reet Mohinder Kaur has already been allowed by this Court

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vide order dated 24.01.2017 (Annexure P-7). The case of the petitioner is on same footing. Accused Jaswinder Kaur @ Binder Kaur, who faced trial, has already been acquitted. The documents placed on record would reveal that at the time of preparing the cancellation report, the investigating agency was fully aware that petitioner was in Canada at that time and so, proclamation proceedings initiated against him in India are *non est*. Petitioner returned to India on 14.01.2020 and thereafter, had filed this petition. There is no reason to take a different view than the view taken in the order dated 24.01.2017 passed in CRR No.1653 of 2016 (O&M), whereby summoning order under Section 319 Cr.P.C. was set aside.

8. Considering that the case of the petitioner is on the same footing as that of the petitioners in CRR No.1653 of 2016, namely Reet Mohinder Kaur and Gurkamal Singh, FIR No.123 dated 29.05.2013, registered at Police Station Dakha, District Ludhiana Rural, under Sections 420, 120-B and 506 of IPC (Annexure P-1); summoning order dated 24.09.2015 (Annexure P-6) under Section 319 Cr.P.C. qua petitioner; and all the consequential proceedings emanating from the said FIR, are hereby quashed.

The petition is disposed of accordingly.

February 08, 2023

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**(DEEPAK GUPTA)
JUDGE**

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