

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-16829-2023

Date of Decision:25.05.2023

BIKRAMJIT SINGH @ BIKRAMJEET SINGH @ VICKY

...PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Armaan Gagneja, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J. (Oral)

This is a petition under Section 482 Cr.P.C., for seeking quashing of PO Order dated 20.08.2022 (Annexure P-9) passed by the Court of Ld. JMIC, Malout in FIR No.113 dated 12.08.2017 registered under Sections 419, 420, 465, 467, 468, 471, 120-B IPC and all consequential proceedings arising therefore including FIR No.201, dated 19.12.2022 registered under Section 174-A IPC at Police Station Kabarwala, District Sri Muktsar Sahib.

Learned counsel for the petitioner contends that due to the demise of the father of the petitioner could not surrender once he was granted bail by the Learned District & Sessions Judge, Sri Muktsar Sahib in FIR No.201 dated 19.12.2022 under Section 174-A IPC at Police Station Kabarwala.

The counsel for the petitioner further submits that proceedings in the main complaint under Section 138 Negotiable Instruments Act are still going on and the petitioner is willing to join the proceedings before the trial Court and the said absence of the petitioner was neither intentional nor deliberate but due to

uncertain circumstances which is beyond control.

This Court while exercising the power under Section 482 Cr. P.C is not adverse to the proposition that in case the petitioner is allowed to surrender before the trial Court and his bail application be considered fresh subject to his joining the trial proceedings to undertake that he will not commit any default in future and this would only facilitate the furtherance of trial to secure the ends of justice and it will also prevent the abuse of process of law.

Since, this Court has inherent powers to act ex-debito justitiae to do the real and substantial justice for the administration of which it alone exists or to prevent abuse of process of Court. The said view has the strength from a judgment by the Apex Court in **Geo Varghese vs. State of Rajasthan and Anr.-2021(4) R.C.R. (Criminal) 361**. It has also observed therein to the effect that such inherent power being very wide in itself imposes solemn duty on Courts, requiring great caution in its exercise, which shall also be based on sound principles.

The relevant observations as made in the aforesaid case law Geo Varghese (Supra) would be suffice to consider herein before culminating the final conclusion:-

The scope and ambit of inherent powers of the Court under [Section 482 Cr.P.C.](#), or the extra-ordinary power under [Article 226 of the Constitution of India](#), now stands well defined by series of judicial pronouncements. Undoubtedly, every High Court has inherent power to act ex debito justitiae i.e., to do real and substantial justice, or to prevent abuse of the process of the Court. The powers being very wide in itself imposes a solemn duty on the Courts, requiring great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power vested in the Court should not be exercised to stifle a legitimate prosecution. However, the inherent power or the extra-ordinary power conferred upon the High Court, entitles the said Court to quash a proceeding, if it comes to the conclusion that allowing the proceeding to continue would be

an abuse of the process of the Court, or the ends of justice require that the proceeding ought to be quashed.

*35. The following observations made by this Court in the case of **State of Karnataka Vs. L. Muniswamy & Ors., (1977) 2 SCC 699** may be relevant to note at this stage:-*

“The whole some power under [Section 482](#) Cr.P.C., entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent power, both in civil and criminal matters, to achieve a salutary public purposes. A Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The Court observed in this case that ends of justice are higher than the ends of mere law though justice.

*37. In **State of Haryana & Ors. Vs. Bhajan Lal & Ors., (1992) Supp (1) SCC 335**, this Court held that it may not be possible to lay down any precise, clearly defined and inflexible guidelines or rigid formulae and to specify an exhaustive list of the cases, where such power should be exercised. However, by way of illustration, the Court laid down the following categories of cases wherein such power could be exercised either to prevent abuse of the process of the Court or otherwise to secure the ends of justice.*

“(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code.

(3) *Where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

(4) *Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code.*

(5) *Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

(6) *Where there is an express legal bar engrafted in any of the provisions [of the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned Act, providing efficacious redress for the grievance of the aggrieved party. (7) *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”**

38. In the case of *M/s. Zandu Pharmaceutical Works Ltd. & Ors. Vs. Mohd. Sharaful Haque & Anr.*, (2005) 1 SCC 122, this Court observed as under :-

“It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the

complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.”

In the instant case, wherein the petitioner has been declared proclaimed person, though, following a due procedure, as envisaged under Section 82/83 Cr.P.C., however, it is expedient and in the interest of justice and the opinion of this Court to provide another opportunity to the petitioner, who has come before this Court with the willingness and intention to associate himself in the trial proceedings. It is also needs mention that particularly the absence by the petitioner was under peculiar facts and circumstances i.e., he lost his father during the trial proceedings and on that account has also not missed the date but showed bona fide by moving an application for exemption on 02.07.2022, but only on one occasion i.e., 20.08.2022, he failed to appear without intimation/request before the trial Court.

This Court is hence being sanguine of the principle that ends of justice are higher than the ends of mere law especially when no prejudice would be caused to the opposite party rather it would facilitate the progress of trial, the order dated 20.08.2022 (Annexure P-9) as well as FIR No. 201 dated 19.12.2022, under Section 174-A of IPC, registered at Police Station Kabarwala, District Sri Muktsar Sahib (Annexure P-10) are ordered to be quashed subject to the surrender of petitioner before the trial Court within a period of ten days from the date of receipt of copy of this order.

It is also directed herein that in case any application for regular bail is preferred before the trial Court, the same shall be considered on that very day in accordance with law.

Petition is allowed in the aforesaid terms.

25.05.2023
Jyoti

(SANDEEP MOUDGIL)
JUDGE