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

CRM-M-32257-2018 (O &M)

Date of Decision: 24.03.2023

G.S. CHANNI AND ANOTHER

...Petitioners

Versus

STATE OF UNION TERRITORY, CHANDIGARH
AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Shailendra Jain, Senior Advocate
with Mr. Jagtar Singh, Advocate
for the petitioners.

Mr. Rajiv Anand, A.P.P., U.T., Chandigarh.

HARSH BUNGER, J. (ORAL)

CRM-7514-2023

This is an application for placing on record the additional affidavit filed on behalf of petitioner No.2-Gyandev Singh.

Criminal Misc. Application is allowed, as prayed for. Additional affidavit filed on behalf of petitioner No.2-Gyandev Singh, is taken on record, subject to all just exceptions.

CRM-M-32257-2018

Prayer in the present petition, filed under Section 482 of the Code of Criminal Procedure, is for quashing of impugned FIR No.371 dated 26.09.2016 (Annexure P-1), registered under Sections 186 and 353 of the Indian Penal Code, at Police Station Sector 17, Chandigarh, along with all consequential proceedings arising therefrom.

Learned senior counsel for the petitioners submits that petitioner No.1-G.S. Channi, had expired and hence, the proceedings qua him shall abate.

In view of the afore-said submission, the present petition now survives only qua petitioner No.2-Gyandev Singh.

After arguing for sometime, learned senior counsel for petitioner No.2 submits that he may be permitted to withdraw the present petition with liberty to avail other remedy(ies) as available to petitioner No.2 in accordance with law, including liberty to challenge the order framing charges against petitioner No.2.

It is apposite to note here that in the instant case, notice of motion was issued on 31.07.2018 and the trial Court was directed to adjourn the proceedings beyond the date fixed by this Court. However, from the perusal of paper-book, it is revealed that the charges against the petitioners already stood framed on 30.07.2018. Since, the present petition was pending before this Court and also considering that in the interregnum, the Courts were having restricted functioning due to *Covid-19 pandemic*; accordingly, petitioner No.2 is permitted to withdraw the present petition with liberty to avail his other remedy(ies) as available to him in accordance with law, including liberty to challenge the order framing charge against him.

However, in case, any such petition is filed laying challenge to the order framing charge, the same be considered and decided on its own merits, by taking a lenient view regarding the objection of limitation (if any).

A further prayer has also been made by learned senior counsel for petitioner No.2 that the personal appearance of petitioner No.2, before the trial Court, may be exempted.

Suffice it to say that the provisions regarding exemption from personal appearance is provided for under Section 205 of the Code of Criminal Procedure, 1973 and any such prayer will have to be necessarily made before the trial Court at first instance. However, as and when, any such application for personal exemption is moved by petitioner No.2 before the trial Court, the same shall be decided at its own merits.

Learned senior counsel for petitioner No.2 has further submitted that owing to the nature of vocation of petitioner No.2, he has to travel abroad and hence, he prays that appropriate orders may be passed, directing the trial Court to consider the prayer of petitioner No.2 to go abroad, in a positive manner.

So far as the legal position regarding grant of permission to an accused for travelling abroad during the pendency of trial is concerned, it is well settled that in normal circumstances, the permission can be granted to the petitioner to travel abroad being his fundamental right but the conditions are to be imposed for regulating and securing his presence during trial.

In view of the afore-said settled legal position, in case of any restriction imposed in respect of travel abroad; it is observed that as and when petitioner No.2 is to travel abroad, he shall make an application in that regard before the concerned trial Court and the said application shall be considered in accordance with law.

The instant petition is disposed of in the above-said terms.

All pending application/s (if any) shall stand closed.

March 24, 2023

Himani/gurpreet

(HARSH BUNGER)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No