

245-a **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-28478-2019
DATE OF DECISION:-13.02.2023

Avtar Singh and another

...Petitioners.

VS.

State of Punjab

...Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Avtar Singh Bhatti, Advocate,
for the petitioners.

Mr. Ravinder Singh, AAG, Punjab.

HARKESH MANUJA, J. (Oral)

By way of present petition under Section 482 Cr.P.C., prayer has been made for quashing of FIR No.38 dated 08.04.2000, under Sections 465, 467 and 120-B IPC, besides, order dated 06.09.2003, whereby, the petitioners were declared proclaimed persons (Annexure P-2) as well as all subsequent proceedings arising therefrom.

On 20.01.2020, this Court passed the following order:-

“CRM-35219-2020

Allowed as prayed for.

Documents are taken on record as Annexures P-4 and P-5.

Main cases

Prayer in the first petition is for quashing of Criminal Complaint No. 111 dated 19.03.2004, filed under Sections 465, 466, 467, 468, 471, 420, 167, 108, 109, 120-B of the IPC as well as the summoning order dated 19.01.2010,

along with all the subsequent proceedings arising therefrom, keeping in view the fact that co-accused of the petitioners were acquitted by the trial Court, vide judgment dated 03.02.2018.

Prayer in the second petition is for quashing of FIR No. 38 dated 08.04.2000, registered under Sections 465, 467 and 120-B of the IPC at Police Station Dasuya, District Hoshiarpur along with all the subsequent proceedings including order dated 06.09.2003, vide which the petitioners were declared proclaimed offenders, keeping in view the fact that co-accused of the petitioners were acquitted by the trial Court, vide judgment dated 30.08.2011.

Learned counsel for the petitioners submits that much prior to filing of the aforesaid complaint, the petitioners were residing in Italy. It is further submitted that prior to filing of the aforesaid complaint, the said FIR was registered against the petitioners and others on the similar set of allegations regarding forging the birth certificate of the son of the brother of petitioner No. 1 for the purpose of procuring a false passport and taking him to Italy.

Learned counsel for the petitioners further submits that in the trial Court of the aforesaid FIR, the accused persons, who faced full length trial, were acquitted by the trial Court, vide judgment dated 30.08.2011, however, the petitioners were declared proclaimed offenders as they did not face trial.

Learned counsel for the petitioners further submits that at the time when the petitioners were declared proclaimed offenders, they were residing abroad and they never returned back to India and therefore, there was no service effected upon them on their ordinary place of residence and the procedure prescribed under Sections 105(a)(b) Cr.P.C. were not followed.

Learned counsel for the petitioners further submits that the petitioners are ready to appear before the trial Court and face the trial.

Notice of motion for 02.03.2020.

In the meantime, the petitioners are directed to surrender before the trial Court within a period of 15 days from today and on doing so, the petitioners shall be released on interim bail by the trial Court on their furnishing bail/surety bonds and on deposit of Rs. 1 Lakh by each petitioner in the Govt. Treasury, under a head to be nominated by the trial Court.

A photocopy of this order be placed on the file of other connected case.”

2. Today, learned counsel for the petitioners informs this Court that

in pursuance to the aforesaid order, the petitioners have already surrendered

before the trial court and have been released on interim bail on their furnishing bail bonds/surety bonds and are facing trial thereupon.

In view thereof, the petitioners having submitted to the jurisdiction of the trial court and facing the trial, the order dated 20.01.2020 is made absolute.

As regards prayer for quashing of the FIR No.38 dated 08.04.2000, under Sections 465, 467 and 120-B IPC, registered at Police Station Dasuya, District Hoshiarpur and order dated 06.09.2003 (vide which, the petitioners were declared proclaimed persons) along with all subsequent proceedings arising therefrom, the petitioners do not press this petition, at this stage.

However, keeping in view of the fact that the other co-accused of the petitioners, arising out of the same incident already stand acquitted, the trial court is requested to conclude the trial within a period of 6 months.

Disposed of accordingly.

13.02.2023

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No