

CRM-M-42402-2021 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42402-2021 (O&M)

Date of decision: August 03, 2023

Raj Kumar @ Rajan

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Krishan Singh Dadwal, Advocate for petitioner.

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (ORAL)

Petition herein is for quashing of FIR No.456 dated 10.12.2008, registered under Sections 406, 420 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Division No.6, Jalandhar as well as order dated 18.08.2011 (Annexure P-5) whereby petitioner was declared proclaimed offender.

2. Succinct facts as mentioned in judgment dated 01.09.2014 passed by learned Judicial Magistrate First Class, Jalandhar are as under:-

"2. Accused named above are facing trial for the alleged commission of offences punishable under Sections 406, 420 of the Indian Penal Code in FIR No.456 dated 10.12.2008 registered at Police Station Division No.6, Jalandhar. Brief facts of the case of prosecution are that present case was registered on the basis of complaint moved by complainant Rajesh Verma dated 25.09.2008 before Sr. Superintendent of Police, Jalandhar against accused Rattan Lal, Shakuntala Devi and Rajan R/o H.No.61, Gali No. 13, Krishna Nagar, Hoshiarpur. Complainant in his complaint submitted that he is resident of H.No.718, New Model House, Jalandhar. That his real uncle Rattan Lal, his wife Shakuntala Devi and his son Rajan came present at the house of complainant and induced for sending complainant England. That the accused demanded sum of Rs.8 lacs for sending complainant to England. That it was agreed between the complainant and accused that the payment would be made in installments. That accused demanded first installment of Rs.2 lacs which was to be given by the complainant. Complainant further submitted that he gave sum of Rs.50,000/- alongwith passport to the accused. Thereafter he again gave sum of Rs.50,000/- to the accused. After receiving amount of Rs.50,000/- accused called complainant at Delhi and demanded sum of Rs.50,000/-. That after taking sum of Rs.50,000/- from the complainant accused handed over passport and ticket to the complainant. That when the complainant saw the visa the same was not for England rather the same was for Singapore. That accused arranged flight of complainant from Delhi to

Singapore. That at Singapore the persons known to accused got arranged flight of complainant to Indonesia and also arranged work permit for the complainant. Complainant submitted that he remained Indonesia for about two months. That accused further demanded more money from the family members of the complainant. That family members of the complainant keeping in view the future of complainant gave sum of Rs.12,000/- to the accused. That family members of complainant asked the accused to send complainant to England. That accused demanded further sum of Rs.3 lacs from the family members of the complainant for sending complainant England. That when family members of the complainant refused to pay the said amount accused abused family members of the complainant and threatened to kill the complainant. That family members of the complainant arranged Rs.40,000/- and sent to the complainant. That after receiving the said amount complainant returned back to India. That after coming back to India, when complainant demanded the alleged amount from the accused persons, they totally refused to give the same and threatened the complainant with dire consequences. Hence complainant requested to police authorities to take appropriate action against the accused.”

3. Learned counsel for petitioner contends that trial *qua* co-accused, i.e., mother of the petitioner, has resulted in her acquittal and in case, challan is filed, trial can proceed against the petitioner. Though he has filed the present petition seeking quashing of FIR, petitioner is sanguine that it is the same offence which has resulted in acquittal of his co-accused, i.e., mother of the petitioner vide judgment of acquittal dated 01.09.2014 (Annexure P-6) and in all likelihood, petitioner would also be acquitted and he does not press quashing of the FIR.

4. I have heard learned counsel for the parties and perused the case file.

5. Vide order dated 13.10.2021, a co-ordinate Bench of this Court had passed the following order:-

“The case has been taken up for hearing through video conferencing.

Learned counsel for the petitioner contends that the petitioner was wrongly declared as a proclaimed offender for the offences in question. At the most, he could have been declared as proclaimed person. Petitioner is in foreign country and intends to appear before the concerned Court. He places reliance upon order dated 21.11.2018 passed in CRM-M No.51100 of 2018, order dated 24.01.2020 passed in CRM-M No.51588 of 2019, order dated 17.09.2020 passed in CRM-M No.28351 of 2020, order dated 11.02.2021 passed in CRM-M No.3667 of 2021 and Kashmir Ram vs State of Punjab, 2008(25) RCR (Criminal) 742 in support of his contention and further submits that co-accused has already been acquitted.

Notice of motion for 18.01.2022.

Petitioner would be at liberty to appear before the trial Court within 15 days. In the event of his appearance, he shall be enlarged on interim bail subject to its satisfaction.”

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6. On a Court query, learned State counsel submits that challan is at an advanced stage of being prepared and will be filed as expeditiously as possible.
7. In the overall premise, petition is disposed of with a direction to prosecution to file challan within a period of 30 days from today. Since FIR in question was of the year 2008, learned trial Court shall make an endeavour to conclude trial as expeditiously as possible *qua* the petitioner, but not later than 6 months from filing of challan, since it is vehemently argued by learned counsel for petitioner that prolonged stay in India will deprive petitioner in getting job as he resides abroad, and he will be rendered jobless for rest of his life. Interim order dated 13.10.2021 *ibid qua* petitioner shall continue to operate till trial concludes.
8. In case, petitioner is required for any further interrogation, he shall report to the Investigating Officer as and when called to do so.
9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 03, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No