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2023: PHHC:071910

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41489-2022 (O&M)
DECIDED ON: 17.05.2023

KRISHAN GARG ALIAS KRISHAN CHAND AND ANOTHER
.....PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Harsh Aggarwal, Advocate
for the petitioners.

Mr. Rajiv Verma, DAG, Punjab.

Mr. Jiwan Garg, respondent No.2 in person.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction has been invoked under Section 482 of Cr.P.C., for quashing the order dated 05.07.2022 (Annexure P-6) passed by SDJM, whereby the application for seeking permanent exemption from personal appearance before the trial Court moved by the petitioners on the ground medical exigencies was dismissed.

2. Learned counsel for the petitioners has contended that the application seeking exemption from personal appearance of the accused/petitioners has been dismissed by the trial court without appreciating the true and correct facts in right earnest, which was available in the form of medical evidence. On the previous dates as well as today, it is submitted by learned counsel for the petitioners that petitioners are not keeping good health, therefore, they could not walk properly and attend each and every date of proceedings before the trial Court.

3. Respondent No.2, who is present in person opposes the prayer made in the present petition stating that the dismissal of the aforesaid application by the trial Court is legal and based on cogent material evidence available before it. He has drawn the attention of this Court to the impugned order dated 05.07.2022 (Annexure P-6), wherein it has been thoroughly observed that the grounds which are taken by the petitioner for exemption from personal appearance i.e being senior citizens and getting medical treatment, cannot be accepted by any stretch of imagination.

4. Sub-Divisional Judicial Magistrate, Sunam has categorically observed in the impugned order that the undersigned has been watching the petitioners (accused Nos. 4 and 6) appearing before this Court since long and their health is not so critical and are conveniently and comfortably moving and attending the Court proceedings so far.

5. Vide order dated 17.03.2023, this Court had directed the petitioners to appear in person. Today, on request of counsel for the petitioners, the case was taken up at 12.50 PM, who requested for 2-3 minutes for appearance of the petitioners, but this Court kept on sitting and waiting for the petitioners for till 10 (minutes) past 1'o clock, who have now appeared before this Court at their own, though, the petitioner No.2 has walked with a support of stick.

6. This Court is of the firm view that the petitioners in person were standing along-side, their counsel representing them, are fortunately hale and hearty, who are quite capable to walk without any difficulty, as is apparent with the naked eye. This petition is absolutely false. frivolous and totally based upon unsupported medical record and, therefore, the same is dismissed, however, no order as to cost.

7. Ordered accordingly.

17.05.2023

Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>