

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

**CRM-M-49864-2023
Date of decision: 09.10.2023**

NARINDER GUPTA AND ANR.

...PETITIONERS

VERSUS

STATE OF PUNJAB AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Amit Dhawan, Advocate for the petitioners.

VIVEK PURI, J. (ORAL)

1. Petitioners are seeking to quash the order dated 21.07.2023 passed by the Court of learned Judicial Magistrate 1st Class, Jalandhar vide which the petitioners have been declared as proclaimed offenders in the case bearing FIR No.25 dated 02.03.2019, under Sections 323/354/342/506/34 IPC, registered at Police Station Division No.7, Jalandhar, District Police Commissionerate, Jalandhar on the basis of compromise.

2. Learned counsel for the petitioners contend that at the earlier instance, the petitioners had sought to quash the order dated 17.11.2022 passed by the learned trial Court vide which non-bailable warrants were issued. The petitioners had assailed the said order and in terms of order dated 09.03.2023 in CRM-M-11823-2023, the petitioners were directed to appear before the trial Court and ordered to be released on bail. It was further directed that they shall pay costs to the tune of Rs.25,000/- with the Punjab and Haryana High Court Bar Association Lawyers Family Welfare Funds. It has been further submitted that the compromise has been effected between the parties.

3. It has been submitted that on account of health issues of petitioner No.2, the petitioners could not surrender in the trial Court and subsequently, they

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have been declared as proclaimed offender in terms of order dated 21.07.2023.

4. The petitioners have been arraigned as accused in the case bearing FIR No.25 dated 02.03.2019, under Sections 323/354/342/506/34 IPC, registered at Police Station Division No.7, Jalandhar, District Police Commissionerate, Jalandhar. At the earlier instance, the petitioners had assailed the order dated 17.11.2022 passed by the learned trial Court vide which non-bailable warrants were issued. The said petition was disposed of by making following observations:-

"1. The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence. The petitioners have come forward to face trial and undertakes to appear before trial court on each and every date, thus, their presence would meet ends of justice;

2. The petitioners for wasting valuable time and energy of courts as well prosecution is willing to pay costs of Rs.25,000/-;

3. The petitioners are not involved in any other offence;

4. Matter is pending since 2019 and petitioners are ready to face trial, thus, no prejudice is going to cause to prosecution or complainant;

5. The petitioners have joined investigation and interim bail orders stand confirmed.

This court is of the considered opinion that present petition needs to be allowed and accordingly allowed. Order dated 17.11.2022 (Annexure P-5) is set aside and petitioners are directed to appear before trial Court within 15 days and on their doing so, trial Court would released them on bail subject to furnishing of bail bonds and payment of costs of Rs.25,000/-, as agreed, to be deposited with the Punjab and Haryana High Court Bar Association Lawyers Family Welfare Funds.

Disposed of in above terms.

5. It has not been disputed that despite specific directions, the petitioners have not surrender in the trial Court within a period of 15 days and even, they have not deposited the costs of Rs.25,000/- as agreed to be deposited with Punjab and Haryana High Court Bar Association Lawyers Family Welfare Funds.

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has been made for extension of time to surrender on account of health issues of any of the petitioners. The material on record is indicative of the fact that the petitioners have failed to comply with the order dated 09.03.2023 passed in CRM-M-11823-2023. Despite specific directions to surrender within a period of 15 days, they failed to do so. Even, the costs as imposed upon the petitioners have not been deposited.

7. In such circumstances, the learned trial Court was well justified to proceed further against the petitioners. The petitioners have failed to appear before the trial Court despite specific knowledge of the pendency of the case and issuance of warrants against them. Merely, because compromise has been effected, it will not provide any leverage to the petitioners to circumvent and evade the compliance of order dated 09.03.2023 passed by this Court in CRM-M-11823-2023.

8. In these set of circumstances, no interference is called for.

9. In view of the above, the present petition is dismissed.

09.10.2023

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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No