

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-5076-2017 (O&M)

Date of decision: 12.07.2023

Smt. Shakuntla and another

....Petitioners

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. J.P.Sharma, Advocate for petitioners.

Mr. Karan Garg, AAG, Haryana.

Ms. Deepika, Advocate for

Mr. S.K.Yadav, Advocate, for respondent No.2.

ARUN MONGA, J. (ORAL)

The instant petition has been filed under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr. P.C.')

inter alia seeking quashing of FIR No.514 dated 02.12.2016 (Annexure P-10), registered under Section 174-A of Indian Penal Code (for short 'IPC'), at Police Station Mohindergarh, District Mohindergarh and all the subsequent proceedings arising therefrom.

2. Learned counsel for the petitioners submits that petitioners were declared as proclaimed persons even before the expiry of mandatory 30 days period envisaged in Section 82 Cr.P.C., Proclamation was issued on 03.11.2015 and petitioners were declared as proclaimed persons on 16.11.2015.

2.2. The learned counsel argues that the petitioners surrendered before the Court and underwent trial, resulting in their acquittal. Subsequently, the complainant filed a complaint with the learned Area Magistrate, leading to the registration of a case against the petitioners under Section 174-A IPC qua the same trial. The counsel contends that such a recourse is not legally valid one, since the petitioners had already faced trial. Moreover, the learned counsel for the petitioners highlights that the

complainant/respondent No.2, Surrender, himself was convicted in an FIR No.434 dated 16.10.2011 under Sections 323, 325, read with Section 34 IPC, which was registered at the petitioners' instance, vide a judgment dated 03.12.2016.

3. On the other side, the learned State counsel, along with counsel representing respondent No.2, opposes the petition. They assert that the petitioners intentionally failed to appear in the learned Court for the trial, leading to their declaration as proclaimed persons on 16.11.2015, following proper process of law. The petitioners later surrendered in the Court on 11.02.2016. However, since they did not earlier appear before the learned Area Magistrate, a separate and independent offense under Section 174-A IPC was committed, justifying registration of the FIR against them. On a court query, the State counsel admits that respondent No.2, Surrender, and his brother Birender were indeed convicted and sentenced on 03.12.2016.

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

5. Perusal of the case file reveals that while issuing notice of motion, proceedings before learned Court below were ordered to be stayed. Till today, interim order is in operation. Since the petitioners were acquitted in the main case, I see no grounds as to why further criminal proceedings should continue as same would be an exercise in futility and waste of precious time of the Court below, especially given that the conduct of the complainant also does not appear to be above board.

6. Keeping in view the totality of facts and circumstances of the present case, this Court is of the considered opinion that it is a fit case where this Court would exercise its discretionary jurisdiction to prevent the abuse of process of the Court.

7. In the premise, FIR No.514 dated 02.12.2016, registered under Section 174-A of Indian Penal Code (for short 'IPC'), at Police Station Mohindergarh, District Mohindergarh and all the subsequent proceedings arising therefrom are hereby quashed *qua* the petitioners.

- 8. Petition is allowed accordingly.
- 9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

12.07.2023
vandana

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