

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

116-2 CRM-M-1936-2019
Date of Decision : April 30, 2024

VIKRAM SHARMA AND ANOTHER -PETITIONERS

V/S

STATE OF PUNJAB -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. A.S. Mann, Advocate
for the petitioners.

Mr. Pardeep Bajaj, D.A.G., Punjab.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, the petitioners strive for quashing of the order dated 19.07.2018, wherethrough, they have been declared as “Proclaimed Offenders” by the learned Judicial Magistrate 1st Class, Bathinda, in a case arising out of FIR No.12 dated 23.01.2014, under Section 420, 34 of the IPC, registered at P.S. Civil Lines Bathinda.
2. A Co-ordinate Bench of this Court had, on 18.01.2019, passed the hereinafter extracted order upon the instant petition:-

“Prayer in this petition is for quashing of the order dated 19.07.2018 passed by the trial Court in FIR No.12 dated 23.01.2014 under Sections 420, 34 IPC, Police Station Civil Lines Bathinda, District Bathinda, vide which the petitioners were declared proclaimed offenders.

Learned counsel for the petitioners submits that the accused persons/petitioners have already filed CRM-M-1886-2015 praying for quashing of aforesaid FIR No.12, in which there is an interim order dated 17.03.2015 that in the meantime, the trial Court will not take any effective proceedings and on 14.01.2019, it was stated by the petitioners as well as the complainant that the matter has been compromised and respondent No.2- complainant is ready to appear before the trial Court for recording the statement with regard to the compromise.

It is further submitted that even the petitioners are ready to appear before the trial Court and apply for bail.

Notice of motion for 08.04.2019.

To be listed along with CRM-M-1886-2015.

In the meantime, petitioners are directed to appear before the trial Court within a period of 10 days from today and the trial Court will release them on interim bail subject to furnishing their bail/surety bonds.”

3. On the last date of hearing, i.e. 24.04.2024, when the learned counsel for the petitioners, owing to his ignorance, could not inform this Court as to whether the petitioners had, in compliance of order dated 18.01.2019, surrendered or not, this Court had imposed costs of Rs.5,000/- upon the petitioners.

4. Today, the learned counsel for the petitioners has, apart from supplying the receipt depicting deposit of costs imposed by this Court, which is taken on record as ‘Mark A’, informed this Court that the petitioner had, in compliance of order dated 18.01.2019, surrendered before the learned Magistrate concerned on 28.01.2019, whereupon, they have been released on interim bail, on their furnishing personal bonds in the sum of Rs.70,000/- with one surety in the like amount.

5. The learned counsel for the petitioners has submitted that, although the proclamation order (supra) deserves its being quashed solely on account of its becoming passed in utter disdain to the mandate carried in Section 82 of the Cr.P.C., yet since the matter has already been compromised *inter se* the parties concerned and even statements of the parties concerned have also been recorded in this regard, therefore, then also proclamation order (supra) warrants its being quashed. He has further submitted that, on the bedrock of such compromise, a petition bearing No. CRM-M-1886-2015, wherein quashing is sought of the FIR No.12

(supra), is also pending before this Court.

6. Nonetheless, by drawing attention of this Court towards the order dated 28.01.2019, which is taken on record as ‘Mark B’, and, whereby the petitioners were admitted to interim bail in accordance with directions of this Court made on 18.01.2019, the learned counsel for the petitioners has submitted that once the petitioners had caused appearance before the learned Magistrate concerned and thereupon released on bail, therefore, pursuant upon their appearance, the operation of the proclamation order (supra) ceases to operate.

7. Be that as it may, when there is no wrangle amongst the contesting litigants that the principal dispute leading to registration of FIR No.12 (supra) has already been compromised *inter se* the parties concerned, coupled with the fact that, (i) the underlying object behind declaring any person a “Proclaimed Person/Offender” is to secure his presence for facing trial; (ii) the petitioners have already, as is apparent from ‘Mark B’, surrendered before the learned Magistrate concerned and thereupon released on interim bail; (iii) thereafter, they have been continuously appearing in the trial proceedings; and (iv) the proclamation order (supra) has been passed without making meticulous compliance of Section 82 of the Cr.P.C.; consequently, this Court deems it fit and appropriate to quash the proclamation order (supra). Consequently, the instant petition is **allowed** and the order dated 19.07.2018 is hereby **quashed**.

April 30, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No