

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

CRM-M No.2860 of 2024
Date of Decision: 19.01.2024

TAJINDER KAURPetitioner

Vs

STATE OF PUNJAB AND ANOTHERRespondents

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Ms. Kamalpreet Kaur, Advocate and
Ms. Puja Chopra, Advocate
for the petitioner.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of FIR No.08 dated 24.01.2020 registered under Section 174-A IPC at Police Station Division No.6, Jalandhar (Annexure P-1).

[2]. Briefly stating. in the present case, a complaint under Sections 406, 420, 467, 468, 471, 120-B IPC was filed before the Court of Judicial Magistrate Ist Class at Jalandhar at the instance of respondent No.2 against the petitioner and two others, wherein the petitioner was summoned vide order dated 27.09.2018. Having failed to appear before the Trial Court in pursuance of the summoning order, the petitioner was declared as proclaimed offender vide order dated 25.04.2019 followed by registration of FIR in question against her.

[3]. Impugning the aforementioned FIR No.08 dated 24.01.2020, learned counsel for the petitioner submits that petitioner was never served in pursuance of the summoning order being resident of England at the relevant point of time. No

effort was ever made to serve the petitioner through the process under Section 105 Cr.P.C., besides it learned counsel informs that both the parties have already entered into a settlement and the complaint already stands withdrawn at the end of respondent No.2.

[4]. Notice of motion to respondent No.1/State only. At this stage, notice to respondent No.2 may not be necessary as the dispute relates to the adjudication upon the FIR under Section 174-A IPC and the matter being purely between the petitioner and the State agency, the presence of respondent may not be required. Moreover, issuance of notice to respondent No.2 would unnecessarily attribute financial burden upon him as well.

[6]. Upon advance notice, Mr. Shubham Kaushik, Asstt. A.G., Punjab accepts notice on behalf of respondent No.1.

[7]. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

[8]. In the present case from the paper book, it can be traced out that at the time of filing of the complaint, respondent No.2 as well as the Trial Court were fully conscious of the fact that petitioner is residing in England and thus, efforts were to be made to serve her through adopting process under Section 105 Cr.P.C., which was never followed. Moreover, the complaint already stands withdrawn in pursuance of settlement dated 09.01.2024 and thus, no useful purpose is going to be served by continuing with the proceedings arising out of the FIR in question wherein petitioner has even been granted concession of anticipatory bail by this Court.

[9]. In view of discussion made hereinabove, the mandatory provision under Section 105 Cr.P.C. having not been complied while declaring the petitioner as proclaimed offender vide order dated 25.04.2019; registration of FIR and the proceedings arising out of FIR are purely abuse of process of law. Resultantly, the present petition is allowed and the FIR No.08 dated 24.01.2020 (Annexure P-1) along with all other consequential proceedings arising therefrom are hereby quashed, however subject to payment of cost(s) of Rs.10,000/- to be deposited by the petitioner with the Bharat Sewak Samaj, Nehru Bhawan, Sector 24, Chandigarh, within a period of two weeks from today.

January 19, 2024	(HARKESH MANUJA)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No