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CRM-M-4826-2020 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4826-2020 (O & M)
Date of Decision:21.05.2024

Kulvir Singh Multani
... Petitioner
Versus
State of Punjab and anr. ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Barjinder Singh, Advocate, and
Mr. Prateek Pandit, Advocate,
for the petitioner(s).

Mr. Harkanwar Jeet Singh, AAG, Punjab,
with Mr. Rahul Jindal, AAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of FIR No.5 dated 31.08.2009 under Sections 420, 465, 467, 468, 471 and 506 IPC and Section 12 of the Passport Act, 1967 registered at Police Station NRI District Kapurthala as well as the order dated 05.02.2013 (Annexure P-7) passed by the Additional Chief Judicial Magistrate, Kapurthala whereby petitioner has been declared a proclaimed offender.

2. The brief facts of the case are that the aforementioned FIR came to be registered at the instance of Surinder Singh son of Ajit Singh who was an NRI and resident of France with the allegations that his wife- Sukhjinder Kaur had obtained a divorce from him in his absence. His

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brother-Kulvir Singh (petitioner) and his ex-wife-Sukhjinder Kaur wanted to grab his property and were threatening to kill him. He had come to know that Kulvir Singh had got made three passports in the name of Kulvir Singh son of Ajit Singh date of birth 27.05.1976, Kulvir Singh Multani son of Ajit Singh Multani, resident of Innowal and Kulvir Singh son of Avtar Singh, resident of Village Nangal Lubana, District Kapurthala. Legal action was sought against Sukhjinder Kaur and Kulvir Singh. A copy of the FIR is attached as Annexure P-1 to the present petition.

3. Pursuant to the registration of the FIR, the petitioner was granted anticipatory bail and the report under Section 173(2) Cr.P.C. was presented on 22.07.2011. However, the petitioner absconded and was declared a proclaimed offender vide order dated 05.02.2013.

4. The instant petition has been filed for quashing of the FIR (Annexure P-1) and the order (Annexure P-7) whereby the petitioner was declared a proclaimed offender.

5. The learned counsel for the petitioner contends that the allegations levelled against the petitioner were baseless. The respondent-complainant was an alcoholic and used to beat his ex-wife/Sukhjinder Kaur who obtained an ex-parte divorce from him. The allegation against the petitioner holding multiple passports was baseless. In fact, the investigating agency had colluded with the complainant and got the instant FIR registered. The first passport was issued to the petitioner

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when he was 17 years old and his details had been filled in by his father-Jit Singh who was a rustic farmer. When the said passport expired, the petitioner applied for a fresh passport by disclosing his full name as Kulvir Singh Multani son of Jit Singh Multani leading to the issuance of a subsequent passport. The immigration authorities had never objected to the passport being used by the petitioner. In fact, Kulvir Singh and Kulbir Singh as well as Ajit Singh and Jit Singh were phonetically similar in the Punjabi language and therefore, it was possible that the earlier passport issued in 1993 contained slightly different particulars. As regards the petitioner being declared a proclaimed offender, he contends that in the absence of any valid travel document, the petitioner could not return back to India and the Government authorities did not issue a fresh passport due to the pendency of the instant FIR. As the complainant-respondent had passed away without leaving behind any LRs, the FIR (Annexure P-1) and the impugned order (Annexure P-7) declaring the petitioner a proclaimed offender were liable to be quashed.

6. The learned counsel for the State, on the other hand, has filed a reply dated 23.01.2024 by way of an affidavit of Gurpreet Singh, PPS, Deputy Superintendent of Police, NRI and Women Wing, Sub Division, Jalandhar, which is taken on record. While referring to the said reply, he contends that the FIR in question came to be registered after a detailed enquiry. The details of the petitioner including the parentage were different in both the passports and therefore, it was apparent that he

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had got two passports issued in two different names. Pursuant to the presentation of the challan, the petitioner had absconded and had been declared a proclaimed offender. He remained as such for 10 years and therefore, did not deserve any leniency. He, therefore, contends that the present petition was liable to be dismissed as the offence in question was *prima facie* established and the arguments of the petitioner were disputed questions of fact which could not be examined in the summary proceedings under Section 482 Cr.P.C.

7. I have heard the learned counsel for the parties.

8. As per the allegations in the FIR, the petitioner got prepared two passports containing different names and parentage. Pursuant to the conclusion of the investigation, the report under Section 173(2) Cr.P.C. stands submitted against the petitioner. Therefore, the offence is *prima facie* established against him. Further, the petitioner has been an absconder for the last 11 years. A person who is absconding from justice cannot invoke the inherent powers of this Court seeking quashing of the FIR.

9. In view of the above discussion, I find no merit in the present petition and the same stands dismissed.

May 21, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No