



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

267

CRM-M-20180-2018 (O&M)
Date of Decision: 17.12.2024

YADWINDER SINGH AND ORS

...Petitioners

Versus

STATE OF PUNJAB AND ANR

...Respondents

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Gaurav Datta, Advocate
for the petitioners.

Mr. Jasdeep Singh, DAG, Punjab.

HARPREET KAUR JEEWAN, J.

CRM-22089-2018

1. The present application filed by the petitioners for placing on record the copies of passports of the petitioners as Annexures P-9 to P-11 is allowed.

2. Annexures P-9 to P-11 are taken on record subject to all just exceptions. Office to tag the same at appropriate place.

Main case

1. Prayer in the present petition is for quashing of the order dated 16.01.2017 (Annexure P-8) passed by the learned Additional Chief Judicial Magistrate, SAS Nagar, whereby the petitioners were declared proclaimed offenders in complaint No.RT52 of 2012 dated 22.12.2012.

2. Learned counsel for the petitioners submits that petitioners namely



Yadwinder Singh, Kulwant Singh Jawandha and Harjit Kaur are residing in New Zealand and they were not present in India at the time when the complaint was filed as well as summoning order was passed. As such, the petitioners were wrongly declared proclaimed offenders vide order dated 16.01.2017 (Anneuxre P-8) passed by the learned Additional Chief Judicial Magistrate, SAS Nagar. He further submits that the petitioners have appeared before the trial Court on 04.10.2018 in compliance of the orders dated 07.08.2018 and 18.08.2018 passed by the Coordinate Bench of this Court.

3. On 07.08.2018, the Coordinate Bench of this Court passed the following order:

'Heard.

This is a petition that has been filed under Section 482 Cr.P.C. for quashing of order dated 16.01.2017, by which the petitioners herein have been declared as proclaimed offender. It is also argued that petitioners herein are residing in New Zealand and were not present in India, when the complaint was filed or the summoning order passed. It is also contended that the complainant, who is the power of attorney holder of his daughter Barinderjit Kaur, was well aware about this fact. Learned counsel for the petitioner prays that the petitioners are ready to face the trial, however, prays for stay of their arrest in order to enable them to join the proceedings.

I have heard learned counsel for the petitioners and while taking note of the fact that the petitioners herein were residing abroad on the relevant date, there is non-compliance of Section 82 Cr.P.C. The arrest of the petitioners herein is stayed for a period of two months.

Notice of motion for 11.12.2018.

In the meantime, arrest of the petitioners is stayed for a period of two months. The petitioners are directed to join the proceedings before the trial court within the period of two weeks and on their doing so, the trial court is directed to release them on interim bail subject to their furnishing bail bond and surety bonds to its satisfaction. It is made clear in case, the petitioners herein fail to join the proceedings within the stipulated period, any interim protection granted to them shall stand automatically vacated.'

4. Learned counsel for the petitioners further submits that though the service of respondent No.2 is not being effected, however, respondent No.2 has lost interest in litigation.

Respondent No.2-Barinderjeet Kaur Dhillon represented through



General Power of attorney holder has submitted a duly sworn affidavit dated 20.12.2018, which has been attested by Notary Public in New Zealand (Annexure P-9). In the said affidavit, she has categorically stated that her marriage with petitioner No.1-Yadwinder Singh was dissolved by the Family Court at Henderson, New Zealand vide order dated 27.01.2017. After dissolution of the marriage, their daughter is residing with respondent No.2 whereas their son is living with her ex-husband-Yadwinder Singh. As per the said affidavit, respondent No.2 has categorically stated that she has no intention of pursuing the criminal complaint filed by her against her ex-husband Yadwinder Singh and his other family members including his father-Kulwant Singh Jawandha-petitioner No.2 and mother-Harjit Kaur-petitioner No.3. The petitioners No.2 and 3 are senior citizens.

6. The petitioners No.2 and 3 have joined the proceedings before the trial Court. It has been shown that they were not in India at the time when complaint was filed and when they were declared proclaimed offenders vide order dated 16.01.2017.

7. As per the orders (Annexures P-3 and P-5), no notice was ever served to the petitioners No.2 and 3 and even no notice was sent at the address of the petitioners in New Zealand.

8. As per the copies of the passport of petitioner No.2-Kulwant Singh Jawandha (Annexure P-11) and petitioner No.3- Harjit Kaur (Annexure P-10), they were not in India at the relevant time.

9. In view of the above facts and circumstances, the impugned order dated 16.01.2017 (Annexure P-8) qua petitioners No.2 and 3 is liable to be set aside.



10. Consequently, the petition qua petitioners No.2 and 3 stands allowed. Order dated 16.01.2017 (Annexure P-8) is set aside qua petitioners No.2 and 3.

11. Since, there is no compliance on behalf of the petitioner No.1- Yadwinder Singh to the order dated 07.08.2018 passed by the Coordinate Bench of this Court, which was modified subsequently vide order dated 18.08.2018, as such petitioner No.1 is not entitled to any discretionary indulgence under Section 482 Cr.P.C..

12. Consequently, the petition qua petitioner No.1 stands dismissed.

13. All the pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

17.12.2024
P.Bhatt

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