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CRM-M-4520-2017 (O&M) and another connected case

287 (2 cases)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision:- 24.09.2024

(1)

CRM-M-4520-2017 (O&M)

Kavita Chaudhary and Another Petitioners

Vs.

State of Punjab and Another Respondents

(2)

CRM-M-4717-2017 (O&M)

Lalit Rai Petitioner

Vs.

State of Punjab and Another Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Kawaljit Singh, Senior Advocate with
Mr. Sanjiv Gupta, Advocate and
Mr. Tushar Wadhwa, advocate
for the petitioner(s) in both cases.

Mr. Gautam Thapar, AAG, Punjab.

Ms. Prabhjot Kaur, Advocate
for respondent No. 2 in both cases.

* * * *

AMARJOT BHATTI, J.

1. Both petitions i.e. CRM-M-4520-2017 and CRM-M-4717-2017 are taken up together for disposal with the consent of learned counsel for parties since arising out of same order.

2. As per the facts, Kavita Chaudhary and Karamvir Chaudhary filed petition bearing CRM-M No. 4520-2017 under Section 482 Cr.P.C.



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seeking quashing of order dated 20.05.2015 (Annexure P-10) vide which petitioners were declared proclaimed offender(s) without taking into consideration mandate of law and provisions of Section 82(4) Cr.P.C. and Section 83 Cr.P.C. and for staying operation of impugned order or in alternative petitioner may kindly be granted concession of bail in pending trial arising out of FIR No. 264 dated 31.12.2014 under Sections 452/506/34 of IPC, registered at Police Station Phase-1, Mohali.

Petitioner Lalit Rai also filed separate petition bearing CRM-M No. 4717 of 2017, seeking same relief regarding impugned order dated 20.05.2015 (Annexure P-10).

3. For the convenience of this Court, documents annexed with CRM-M-4520-2017 are referred.

4. Brief facts of case as detailed in FIR No. 264 dated 31.12.2014 under Sections 452/506/34 of IPC, registered at Police Station Phase-1, SAS Nagar (Annexure P-5) are that Anju Saini wife of Amarjeet Saini complainant alleged that on the day of occurrence i.e. 03.11.2014 at about 10:00 AM, her sister Kavita Chaudhary alongwith her husband Karamvir Chaudhary reached her house No. 86, Phase-4, Mohali and started threatening them. She and her husband were alone in house and out of fear they locked inner door of house but accused persons continuously threatened them and banged door time and again. They waited for about 40-45 minutes, then called police by dialing 100 number. Both Kavita Chaudhary and Karamvir Chaudhary were forcing them to come outside the house. They were told that she had come alongwith brother and 3-4



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other persons who were ready to attack them. Police reached at about 11:20 AM and all facts were disclosed to them. Said incident was also caught in CCTV camera. It is alleged that Kavita Chaudhary, Karamvir Chaudhary and Lalit Rai were threatening them and they blackmailed them to extract money. With these allegations, present FIR has been registered.

5. Learned counsel for petitioners argued that both petitioners Kavita Chaudhary and Karamvir Chaudhary are permanent residents of Bangalore, Karnataka. Petitioner No. 2 Karamvir Singh is serving in Air Force and petitioner No. 1 Kavita Chaudhary is dependent on her husband. They have placed on record their identify cards, Aadhaar Cards to show their place of residence as Bangalore which are Annexures P-1 to P-3. Lalit Rai, petitioner in CRM-M-4717-2017 is brother of complainant in FIR. In fact, dispute is regarding SCO No. 219, Sector 36-D, Chandigarh, regarding which litigation is going on. A suit for permanent injunction was filed by petitioner Lalit Rai and others. Thereafter, suit for specific performance was also filed. Copy of judgment in suit for permanent injunction is Annexure P-4, whereas, copy of plaint in suit for specific performance is Annexure P-6. Two other FIRs are also registered between the parties which are Annexures P-7 and P-8. Learned counsel for petitioners argued that in FIR No. 264 dated 31.12.2014 (supra), they were declared proclaimed offenders vide impugned order dated 20.05.2015. In fact, they were never properly served. When they came to know about impugned order, both petitioners Kavita Chaudhary and Karmavir Chaudhary as well as petitioner Lalit Rai filed separate petitions referred



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above for quashing of aforesaid impugned order. During the pendency of these petitions, operation of impugned order was stayed vide order dated 13.02.2017 in CRM-M-4520-2017 and vide order dated 15.02.2017 in CRM-M-4717-2017. In *interim* order passed in CRM-M-4717-2017, petitioner Lalit Rai was directed to appear before the trial Court at earliest and continue to appear before it on each date. At this stage, learned counsel for petitioners argued that due to some miscommunication, petitioners could not appear before trial Court, as they remained under impression that proceedings have been stayed. It is argued that all petitioners are seeking one opportunity to appear before trial Court on next date of hearing and they will appear regularly on each and every date of hearing. Therefore, taking a lenient view, petitioners may be granted one chance to appear before the trial Court.

6. On the other hand, learned counsel representing respondent No. 2 strongly opposed both petitions, taking the stand that petitioners have failed to comply the direction passed by this Court. Therefore, they are not entitled to any concession. Because of their long absence, proceedings of case have been much delayed.

7. Learned counsel representing State also opposed both petitions, alleging that quashing petitions filed by petitioners are without any justification. They were served as per address available with police. Proper procedure was followed to procure their presence and ultimately they were declared proclaimed offenders. On merits, petitions filed by petitioners deserve dismissal.

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8. I have considered the arguments advanced before me and have gone through the record carefully. Both petitions filed by petitioners as referred above are pending since the year 2017. FIR No. 264 dated 31.12.2014 was registered at Police Station Phase-I, Mohali under Sections 452/506/34 of IPC. There are allegations of house trespass and criminal intimidation. It is matter of record that petitioners referred above were declared proclaimed offenders vide order dated 20.05.2015 (Annexure P-10). Documents annexed with aforesaid petitions indicate that dispute between parties is pertaining to SCO No. 219, Sector 36-D, Chandigarh and regarding this property, civil litigation also started between them. In petition filed by petitioners Kavita Chaudhary and Karamvir Chaudhary, there is order dated 13.02.2017 vide which operation of impugned order was stayed, whereas, in petition filed by petitioner Lalit Rai, there is order dated 15.02.2017 vide which operation of impugned order was stayed and there was a direction to petitioner Lalit Rai to appear before the trial Court at earliest and continue to appear before it on each date. Learned counsel for petitioners conceded that due to miscommunication, there is lapse on the part of petitioners as they did not appear before the trial Court. Learned counsel for petitioners requested one opportunity to appear before the trial Court to face trial which is pending against them since long.

Considering the nature of allegations as well as the fact that even present petitions are pending since long, it will be appropriate that petitioners, as referred above, are directed to appear before the trial Court on date fixed i.e. 05.10.2024, to face trial in above mentioned FIR and be



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released on bail on furnishing bail bonds and surety bonds to the satisfaction to trial Court concerned with further condition that petitioners – Kavita Chaudhary, Karamvir Chaudhary and Lalit Rai will deposit ₹20,000/- each at Institute for the Blind, Sector-26, Chandigarh and receipt be produced before the said Court, failing which concerned Court will proceed as per law.

9. Consequently, impugned order dated 20.05.2015 (Annexure P-10 in both cases) is, accordingly quashed, in view of aforesaid direction, by accepting both petitions.

10. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

24.09.2024

lalit

**(AMARJOT BHATTI)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No