

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

CRM-M-33344-2024

Date of decision: 21.08.2024

Mandu alias Mandhu and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. G.S. Verma, Advocate
for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Ankit Gupta, Advocate
for respondents No.2 & 3.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. seeking quashing of criminal complaint No.171 of 2019 dated 04.06.2019 under Sections 363/366-A/376/120-B of IPC and Section 6 of POCSO Act, 2012 (Annexure P-1) and summoning order dated 23.12.2022 passed by the learned Additional Sessions Judge, Fast Track Special Court, Hoshiarpur (Annexure P-2) as well as P.O. order dated 07.06.2013 passed by the learned Additional Sessions Judge, Fast Track Special Court, Hoshiarpur (Annexure P-3) *qua* the petitioners on the basis of compromise dated 22.05.2024 (Annexure P-4).

Learned counsel for the petitioners wishes to withdraw his prayer to the extent of quashing of criminal complaint No.171 of 2019 dated 04.06.2019 under Sections 363/366-A/376/120-B of IPC and Section 6 of POCSO Act, 2012 (Annexure P-1) and summoning order dated 23.12.2022



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passed by the learned Additional Sessions Judge, Fast Track Special Court, Hoshiarpur (Annexure P-2) and confines his prayer to the extent of quashing of P.O. order dated 07.06.2023 passed by the learned Additional Sessions Judge, Fast Track Special Court, Hoshiarpur (Annexure P-3) *qua* the petitioners on the basis of compromise dated 22.05.2024 (Annexure P-4).

Allowed as prayed for.

On 17.07.2024, the following order was passed:-

‘This petition has been filed under Section 482 Cr.P.C. seeking quashing of Criminal Complaint No.171 of 2019 instituted on 04.06.2019 under Sections 363, 366-A, 376, 120-B of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (Annexure P-1), the summoning order dated 23.12.2022 passed by learned Additional Sessions Judge, Fast Track Special Court, Hoshiarpur (Annexure P-2) and the order dated 07.06.2023 (Annexure P-3), vide which the petitioners have been declared proclaimed offenders along with all subsequent proceedings arising therefrom on the basis of compromise dated 22.05.2024 (Annexure P-4).

*Learned counsel for the petitioners, inter alia, contends that earlier on the same set of allegations, FIR No.187 dated 30.07.2015 under Sections 363, 366-A, 120-B of IPC and Section 376 of IPC (added later on), was registered at Police Station Tanda, District Hoshiarpur and after completing the investigation, the jurisdictional police authorities presented the final report under Section 173 Cr.P.C. and the complaint (supra) had been filed levelling the same allegations, in which the petitioners were summoned to face the trial and vide impugned order dated 07.06.2023 (Annexure P-3), were declared proclaimed offenders, as they were never served with proper notice/summons. Now the parties have effected a compromise and compromise deed dated 22.05.2024 is available on record as Annexure P-4. In support of his arguments, learned counsel for the petitioners relies upon a judgment of this Court in **Major Singh @ Major Vs. State of Punjab, 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506**, wherein it has held that the Court is first required to record its satisfaction before issuance of process under Section 82 Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. The conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an ‘irregularity’ and renders the proclamation and proceedings subsequent thereto a nullity.*

Notice of motion for 21.08.2024.

At this stage, on asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab accepts notice on behalf of respondent No.1-State. Copy of the paper book be supplied to him during the course of day.

Learned counsel for the petitioners undertakes to secure presence of respondents No.2 & 3 at the time of recording the statements.



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Meanwhile, the parties are directed to appear before learned trial Court/Illaq Magistrate within two weeks from today or any other date convenient to the trial Court/Illaq Magistrate, to get their statements recorded regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate is directed to send report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed.

In the meantime, operation of the impugned order dated 07.06.2023 (Annexure P-3) shall remain stayed.

The petitioners are directed to appear before learned trial Court within a period of two weeks from today and on their doing so, they shall be admitted to bail on their furnishing bail/surety bonds to the satisfaction of the trial Court.

A copy of the order be sent to learned trial Court/Illaq Magistrate through fax for compliance.'

Learned counsel for the petitioners submits that in compliance of the directions passed by this Court, the petitioners have appeared before the learned trial Court and furnished the bail bonds/surety bonds to its satisfaction.

In view of the above, the impugned order dated 07.06.2023 (Annexure P-3) vide which the petitioners have been declared as proclaimed person, is hereby set aside.

The present petition is disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

21.08.2024*Neha*

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