



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-39639-2023 (O&M)

Date of Decision: 18.10.2024

Ashif @ Aasif and another

.... Petitioners

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Uzra Khan, Advocate for
Mr. Mohammad Arshad, Advocate
for the petitioners.

Mr. Aditya Pal Singla, A.A.G., Haryana.

NIDHI GUPTA, J. (ORAL)

Prayer in this petition is for quashing/setting aside the order dated 01.3.2021 (Annexure P-2) passed by learned Additional Chief Judicial Magistrate, Mewat, whereby the petitioners have been declared as Proclaimed Persons in case FIR No.583 dated 21.11.2019 (Annexure P-1) under Sections 376-D and 506 IPC and Section 6 of POCSO Act, registered at Police Station Sadar Tauru, District Nuh, Mewat.

On the last date of hearing i.e. 09.09.2024, following order was passed by this Court:-

“Prayer in this petition is for quashing/setting aside the order dated 01.3.2021 (Annexure P-2) passed by the Judicial Magistrate 1st Class, Nuh, whereby the petitioners have been declared as Proclaimed Persons in case FIR No.583 dated 21.11.2019 (Annexure P-1) under Sections 376-D and 506 IPC and Section 6 of POCSO Act, registered



at Police Station Sadar Tauru, District Nuh, Mewat.

However, perusal of the impugned order dated 01.3.2021 (Annexure P-2) shows that the same has been passed by the Additional Chief Judicial Magistrate, Mewat.

On oral request of learned counsel for the petitioners, the Headnote and the Prayer Clause of the petition is modified to the extent that it has been mentioned therein that the impugned order dated 01.3.2021 (Annexure P-2) has been passed by the Judicial Magistrate 1st Class, Nuh, shall be read as 'passed by the Additional Chief Judicial Magistrate, Mewat'. The Registry is directed to do the needful.

Learned counsel for the petitioners inter alia submits that the allegations in the FIR are false and fabricated. Even a compromise has been arrived at between the complainant and the petitioners. Moreover, in passing the impugned order dated 01.3.2021 (Annexure P-2) declaring the petitioners as Proclaimed Persons, the provisions of Section 82 Cr.P.C. have not been complied with. It is further submitted that the notice was not served upon the petitioners as per law. Learned counsel further prays that the petitioners be granted one opportunity to surrender before the trial Court and to face the trial proceedings, however, prays for protection.

Notice of motion.

On asking of the Court, Mr. Aditya Pal Singla, AAG, Haryana, accepts notice on behalf of respondent-State.

I have heard learned counsel for the parties and gone through the case file.

In view of the above and keeping in view the totality of the facts and circumstances of the case, but without commenting upon the merits of the case, the impugned order dated 01.3.2021 (Annexure P-2), declaring the petitioners to



be Proclaimed Persons and all subsequent proceedings arising therefrom are ordered to be set aside subject to payment of costs of Rs.10,000/- (Rs.5000/- each) to be deposited within two weeks from today in the "Poor Patients' Welfare Fund of the Post Graduate Institute of Medical Education and Research (PGIMER), Chandigarh". The petitioners are directed to surrender before the learned trial Court/Duty Magistrate on or before 09.10.2024, and move an application for regular bail, which shall be considered and disposed of by the learned trial Court/Duty Magistrate on the same day, by accepting fresh bail/surety bonds to be furnished by the petitioners to the satisfaction of the trial Court/Duty Magistrate.

Adjourned to 18.10.2024 to report compliance."

In compliance of the above said order, learned Additional Sessions Judge, Fast Track Special Court for Trial of offences under POCSO Act, Nuh, has submitted her report dated nil duly forwarded by the learned District and Sessions Judge, Nuh on 16.10.2024, wherein it is stated as follows:-

"petitioners (Ashif @ Aasif and Parmina @ Parveen) did not surrender before this Court on or before 09.10.2024, nor thereafter till date, nor has any application for regular bail been moved by the said accused before this Court in FIR No. 583/2019 PS Sadar Tauru, in pursuance of order dated 9.9.2024 passed by Hon'ble High Court in CRM-M-39639 of 2023."

Learned proxy counsel for the petitioners does not dispute the above said facts.

In view of the above, the present petition stands disposed of.

Pending application, if any, stands disposed of.

18.10.2024

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No