

276 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41689-2024
Reserved on 05.09.2024
Pronounced on: 13.09.2024

Tarsem Singh @ Ranjit Singh and another ...Petitioners
Versus
Subhash Chand and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Navjinder Singh Sidhu, Advocate
for the petitioners.

Mr. Sukhjit Singh, Advocate
for respondent No.1.

Mr. Aashish Bishnoi, DAG, Haryana
for respondent No.2.

ANOOP CHITKARA, J.

“CIS No. COMI-370-2013 dated 19.04.2012 titled as Subhash Chand versus Tarsem Singh & Others” registered under Sections 420, 406, 120-B, 506 IPC

1. Seeking quashing of the order dated 13.08.2024, passed by the Sub Divisional Judicial Magistrate, Pehowa in the complaint captioned above, petitioners had come up before this Court by filing the present petition under Section 528 of BNSS 2023.
2. The petitioners have filed an affidavit in compliance with the order dated 29-08-2024 given the voluntary statement that the petitioners shall not claim such property declaration as self-incriminating.
3. The State has opposed such permission on the following grounds:

“2. That as per facts of the instant case, on 19.04.2012, a complaint under Section 420, 406, 120-B, 506 IPC was got filed against the present petitioners for duping the complainant of Rs. 20,00,000/- on pretext of sending his son- Aman abroad. The said case was remained pending awaiting presence of petitioners/ accused persons and ultimately vide order dated 12.11.2018, petitioners were declared as proclaimed person by the learned Court below.

3. That thereafter, petitioners approached Hon'ble Punjab and Haryana High Court seeking quashing of the said PO Orders, wherein vide order dated 13.05.2024, Hon'ble Punjab and Haryana High Court, had conditionally quashed the PO Order passed by learned Court below and directed the petitioners to surrender before Court concerned on or before 15.07.2024. Resultantly, petitioners surrendered before the Court concerned on 08.07.2024 and were granted bail by the Court concerned on the same date.

4. That pertinently, on account of non presence of petitioners in aforementioned complaint case, proceedings in the said case could not be pursued and entire process remained at halt for a period of more

CRM-M-41689-2024

than 10 years. As per the admitted case of petitioners, petition for quashing of PO orders was filed by the petitioners in year 2021. Therefore, even after obtaining knowledge of the criminal complaint pending against him, petitioners did not bother to join the proceedings against him for a period of 3 years. Ultimately in 2024, petitioners came to India to join proceedings against them.

5. That petitioners joined the proceedings on 08.07.2024 before learned Court concerned and on the very next date of hearing i.e., 02.08.2024, petitioners filed the instant application for grant of necessary permission to go abroad. Vide order dated 13.08.2024, said application was dismissed by learned Court concerned and the case was fixed for 29.08.2024 for pre-charge evidence. Thereafter, on 29.08.2024, no pre-charge evidence was available therefore, matter was adjourned to 19.09.2024 for pre-charge evidence of complainant.

6. That it is humbly submitted that it is a travesty of justice that petitioners remained absent from criminal proceedings for a period of more than 10 years. Ultimately, when petitioners joined the proceedings, they again filed instant application to go abroad. Moreover, a perusal of record would show that along with the application seeking permission to go abroad, petitioners annexed their return tickets for 22.08.2024 which date is now expired and no fresh return tickets are now annexed with the instant case.

7. That after period of a decade, criminal proceedings in complaint instituted by the private respondent were set in motion and now in case the instant petition is allowed, petitioners will again misuse the entire process of law.

8. That petitioners purposely did not attach any fresh return ticket for their return from abroad with the present petition and the previous return tickets for 22.08.2024 were nothing but an eye-wash for halting the entire process of law.

9. That sole intent of petitioners is to delay the proceedings pending against them in the complaint case and in case petitioners again fail to return to India for joining the criminal proceedings, it would amount to nothing but mockery of law. Therefore, no such permission would be granted to petitioners for visiting abroad more particularly when necessary witnesses are yet to be examined.

10. That hence, present petition deserves to be dismissed with exemplary cost and petitioner's prayer for grant of permission to go abroad is liable to be rejected in view of the facts discussed above."

4. The Complainant has also opposed the permission on the following grounds:-

"The respondent respectfully submits that the present petition is not maintainable as the impugned order passed by the SDJM-cum-ACJ (SD) Pehowa is revisable, and the petitioner should have approached the Additional Sessions Judge instead of directly approaching this Hon'ble Court. Due to this procedural lapse, the petition is liable to be dismissed.

The respondent emphasizes the petitioner's previous conduct, noting that a complaint was filed in 2012, and the petitioner was declared a proclaimed person in 2018 due to non-appearance. Although the petitioner later approached the High Court for quashing the PO order, and the order was set aside in May 2024, he only surrendered after 12 years. This conduct indicates that the petitioner does not deserve the relief claimed in the present petition.

The trial court is currently at the pre-charge evidence stage, and granting the petitioner permission to go abroad would hinder the trial's progress. The petitioner had previously attempted to quash the complaint and summoning order in a petition filed in 2014, which shows he was aware of the proceedings

CRM-M-41689-2024

but still went abroad without permission, leading to his proclamation as a proclaimed person. The respondent asserts that the petition should be dismissed based on this behavior.

The respondent also highlights that the trial court's decision, Annexure P-13, is well-reasoned and justified in denying permission for the petitioner to go abroad. Given the petitioner's history of evading legal proceedings, there is a significant risk that he will not return if granted permission to leave the country. On merits, the respondent denies the petitioner's claims and reiterates that the petition is not maintainable due to the available remedy before the Additional Sessions Judge. The respondent contends that the petitioner's past conduct of avoiding the legal process is crucial in determining the current petition. Based on these factors, the respondent prays that the petition be dismissed with costs, and permission to go abroad should not be granted.”

5. However, the petitioner’s counsel states on instructions that they shall appear to attend the trial, and in case they do not appear, they shall not object in the USA about their deportation.
6. The petitioners have sufficient assets to deter evasion of trial. Further, the petitioners have undertaken in their affidavits and through their counsel that if they do not attend the trial, they shall not object to their deportation and also declare their assets vide separate affidavits, attested by a Notary Public or an Executive Magistrate, to the Investigator/ Station House Officer of the concerned Police Station before leaving India and shall mention the tentative departure date(s) and tentative return date(s), declaring the following:

7. Details of the Case:

Sr. No.	FIR No.	Date	Offenses	Police Station	Status

8. Details of all pending FIRs, Complaints, criminal appeals, revisions, and all petitions before all Courts.

Sr. No.	FIR No./ Complaint	Date	Offenses	Police Station	Status

9. Petitioner’s details:

Name	
Mobile number	
e-mail ID	
Passport no.	
Correspondence Address	
Active Indian phone number with international roaming enabled	
Any international phone numbers the petitioner shall be used for travels	
Emergency contact details	
Contact details of Counsel representing the petitioner	

10. The e-mail mentioned above and mobile number(s) are active and in use, and the petitioners shall attend to all calls and respond to the messages and e-mails from the Investigator, Courts, etc.

11. The petitioners shall attend the trial as and when called upon, either in person and, if permitted by the trial Court, then via videoconferencing when abroad, and shall not claim any prejudice for such appearance through video conferencing.
12. The petitioners acknowledge that in case of non-compliance, the consequence shall include, but not be limited to, forwarding the undertaking to the authorities of the concerned country by the Government of India/ State Government/Investigator for deportation, extradition, and cancellation of the petitioner’s passport.
13. The permission and the bail shall be canceled if the petitioners violate any condition.
14. The petitioners shall either hand over the original attested affidavit to the concerned Investigator or send it through Speed Post, with one copy to the Office of the Advocate General.
15. Given the above, the present petition is allowed, and the impugned order dated 13.08.2024, declining the permission to travel, is quashed.

(ANOOP CHITKARA)
JUDGE

13.09.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.