

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.54203 of 2021 (O&M)
Date of decision: 07.02.2024

Dr. William Dean

... Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gursewak Singh, Advocate for the petitioner.
Mr. Joginder Pal Ratra, Sr. DAG, Punjab for respondent No.1.
Mr. Veneet Sharma, Advocate for respondent No.2.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.0074 dated 18.07.2018 (P-1), under Sections 419, 420, 465, 467, 471, 120-B & 201 of the Indian Penal Code, 1860, registered at Police Station, Sadar Batala, Police District Batala, District Gurdaspur along with all consequential proceedings arising therefrom.

(2) Above FIR was registered on the basis of written complaint made by one Daniel Sadhu Masih, resident of Amritsar, claiming to be the

Trustee of “Allen Memorial School” (Trust), Sunaiya, Tehsil Batala, District Gurdaspur with the allegations that petitioner, along with other co-accused, including officials from Revenue Department, forged & fabricated certain documents in order to grab the Trust property and changed the name of School as “Dean Public School”. Also alleged that petitioner entered into an Agreement to sell the land measuring 5.15 Acres belonging to the Trust with Jagjit Singh & Parminder Singh, both sons of Baljeet Singh, resident of Batala and received earnest money to the tune of ₹ 85 Lakh. After investigation, report under Section 173 Cr.P.C. was presented on 18.10.2018 and later on, supplementary report under Section 173 (8) Cr.P.C. was also submitted on 30.11.2021 before the Court of competent jurisdiction.

(3) Short reply by way of an affidavit dated 07.02.2024 of Sh. Sukhjinder Singh, Sub Inspector, SHO, Police Station Sadar Batala, Police District Batala, along with Annexures R-1 to R-4, on behalf of respondent No.1, has been filed. The same is taken on record. Copy thereof supplied to the opposite side.

(4) Although, prayer has been made for quashing of the above FIR along with consequential proceedings; but learned Counsel for the petitioner has failed to demonstrate any ground to the effect that no cognizable offence as alleged against the petitioner is made out and/or that continuation of the proceedings arising out of said FIR are misuse of the process of law.

(5) On the other hand, learned State Counsel, while opposing the prayer, submitted that present petition is liable to be dismissed with exemplary costs in view of the fact that petitioner is not coming forward to

join the proceedings before learned trial Court, despite issuance of non-bailable arrest warrants against him. Also submitted that petitioner was granted bail pending trial by the then Coordinate Bench on 17.11.2018, with specific condition that he shall not leave the country without prior permission of learned trial Court. Again submitted that application of the petitioner seeking permission to go abroad was rejected by learned trial Court wayback on 04.06.2019, yet he left the country on 01.07.2022 and has not returned back till date for the reasons best known to him. During the course of hearing, learned State Counsel also produced copy of order dated 04.06.2019, which is taken on record as Mark 'X'. Further submitted that even the bail bonds/surety bonds, furnished by the petitioner before learned trial Court while releasing him on bail, are found to be fake upon verification and necessary action is being initiated in this regard as per law. Lastly submitted that despite best efforts by the police, whereabouts of petitioner are not known; hence, present petition has been filed with *mala fide* intention just to prolong the proceedings before learned trial Court, as a clever device.

(6) Learned Counsel for the complainant also opposed the prayer on the premise that there is sufficient material on record regarding the complicity of petitioner; but he has been deliberately avoiding the appearance before learned trial Court for the last one-and-half year; hence, prayed for dismissal of petition with costs.

(7) Heard both sides and perused the paper-book.

(8) It is not in dispute that petitioner was granted bail pending trial by the then Coordinate Bench on 17.11.2018 with a specific condition that he shall not leave the country without permission of trial Court. Apart that, it is a matter of record that an application of the petitioner seeking permission to visit abroad was rejected by learned trial Court vide order dated 04.06.2019 and the order reads as under:-

“Heard on the application seeking permission to visit abroad moved by accused-applicant William Din. In reply the learned APP for the State has opposed this application and has prayed for dismissal of the present application.

*Considered. After hearing the rival contention of the learned defence counsel and learned APP for the State and have gone through the case file very carefully. Perusal of the file reveals that the applicant/accused has not produced any document to support the application to visit abroad. Moreover, the accused-applicant has been booked under sections 419,420,465,467,471,120-B,201 of IPC, **So, keeping in view the seriousness of the offence alleged to have been committed by the accused-applicant, at this stage I do not feel it safe to grant permission to accused-applicant to visit abroad for the aforementioned period. Accordingly, the application filed by the accused-applicant seeking permission to visit abroad is hereby dismissed.***

Now case is adjourned to 12.07.2019 for consideration on application for discharging the accused.”

Learned Counsel for the petitioner is not able to show that aforesaid order dated 04.06.2019 has been set aside by any superior Court upto now.

(9) Despite the above factual position, petitioner left the country on 01.07.2022 without getting any permission from learned trial Court and has not returned back till date for the reasons best known to him.

(10) Also noteworthy that petitioner is continuously absent from the proceedings before learned trial Court since 31.03.2022, despite the fact that his non-bailable arrest warrants were issued on 11.12.2023. Even this Court also directed the petitioner on 13.12.2023 to appear in person on the next date of hearing i.e. 19.12.2023; yet, he did not bother to come forward. Ultimately, on 19.12.2023, this Court was constrained to pass an order to secure his presence through bailable warrants and for reference, the order reads as under:-

“Despite the order dated 13.12.2023, petitioner is not present; rather learned Senior Counsel pleads no instructions.

In view of the above, there is no option except to secure the presence of petitioner through bailable warrants.

Senior Superintendent of Police, Batala is directed to take necessary action in accordance with law, forthwith and report be submitted on or before the next date of hearing.

Posted for 05.01.2024.

Be shown in the urgent list.”

(11) Again on 05.01.2024, the position remained the same and petitioner did not turn up. However, on that date, an affidavit of Sh. Sarvanjit Singh, DSP, Sub Division Fatehgarh Churian, Police District Batala was filed and para 4 thereof being relevant is recapitulated as under:-

“That it is humbly submitted that the answering deponent had further directed SHO PS Sadar Batala to ensure compliance and had also sought the compliance report.

From the perusal of the report submitted by SHO Police Station Sadar Batala, the following facts have been revealed out:-

- a) *That, the nonailable arrest warrant of accused William Din S/o Danial resident of Suniya at present 3/22 Ground Floor Shanti Niketan Chankiya Puri Delhi in case FIR No.74 dated 18.07.2018 under section 419, 420, 465, 468, 471, 120-B IPC Police Station Sadar Batala were issued by the Id. court of Sh.Mandeep Singh, JMIC Batala on 22.12.2023 for 02.01.2024 and the same annexed herewith as annexure R-1. For the service of same Special police party consisting of ASI Gurmukh Singh, 2559BTL and ASI Warriam Singh. 2658/BTL were deputed for its implementation. The police party visited South West District P.S. South Campus and took the assistance of HC Perdeeop No. 2460/5W. Then they visited in the above said given address where Chownkidar of the locality namely Vinod Kumar met them and he disclosed that at present William Din is not residing in the above mentioned address as he was residing there on rental basis and since about three years ago he has shifted his residence at an undisclosed place. At the time shifting his residence he tok away all house hold articles. Then the police party reached Police Station South Campus and deported vide G.D. No.0044A dated 28.12.2023. The copy of the same is annexed herewith as Annexure R-2;*
- b) *That, as per the enquiry report of SHO PS Sadar Batala it has been revealed that William Din had conducted three marriages, his first wife was resident of Germany and he has obtained the divorce from her. He had also obtained the divorce from a lady of muslim community who was also residing in foreign country. Thereafter, he conducted third marriage with Jyotika in Delhi has who also gone to Portugal country due to family dispute with her. It has also came to the notice from reliable sources that presently he is residing in Portugal country. He has not came to village Suniya since 2-3 days ago. The Id. court of Sh.Mandeep Singh JMIC Batala had further issued theailable warrant for 05.01.2024, copy of the same is annexed herewith as Annexure R-3, in the name of William Din.”*

A perusal of the above extract reveals that non-bailable arrest warrants of the petitioner have already been issued; his whereabouts are not known and he has shifted his residence at an undisclosed place.

(12) In view of the above, there remains no doubt that petitioner is successfully avoiding the judicial proceedings without any justification and has completely misused the concession of bail. Also discernible that petitioner has deliberately disobeyed the order of this Court as well as of learned trial Court while leaving the country, without obtaining any permission in this regard. As a result thereof, there is no hesitation to observe that petitioner has made the Court proceedings as a mockery and thus, having no respect for the rule of law.

(13) Needless to say that *prima facie*, there is sufficient material regarding the complicity of petitioner for the alleged offences.

Hence, in such a scenario, this Court is of the considered opinion that present petition is nothing; but complete misuse of the process of Court, as a ploy to prolong the proceedings pending before learned trial Court arising out of FIR No.0074 dated 18.07.2018 (*supra*). Hence, in order to discourage such type of frivolous litigation, this Court deems it appropriate to dismiss the present petition with exemplary costs of ₹ 10 Lakh as a deterrence for the future.

(14) Ordered accordingly.

(15) Also clarified that half of the costs i.e. ₹ 5 Lakh shall be deposited with the District Legal Services Authority, Gurdaspur; whereas remaining 50% (₹ 5 Lakh) be paid to the Punjab & Haryana High Court Bar

Association, Sector 1, Chandigarh to defray the expenses of Diagnostic Centre.

(16) Costs be deposited with the quarter concerned and compliance report in this regard be sent to the Registry on or before 15.05.2024. In case there is a failure, Registry shall put up the matter on 16.05.2024 for further necessary action.

(17) Copy of this order be sent to learned District & Sessions Judge, Gurdaspur for information and necessary action.

(18) The above observations may not be construed as an expression of opinion on the merits of case pending before learned trial Court in any manner.

(19) Pending application(s), if any, shall also stand disposed off.

7th February, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes