

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

138 (I) CRM-M-62928-2023
Date of Decision : February 05, 2024

PARVEEN KUMARI -PETITIONER

V/S

JOGINDER PAL -RESPONDENT

(II) CRM-M-63031-2023

PARVEEN KUMARI -PETITIONER

V/S

JOGINDER PAL -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Navkiran Singh, Advocate
for the petitioner.

KULDEEP TIWARI, J. (ORAL)

1. The petitioner, who is residing abroad and is a “Proclaimed Offender”, has instituted the present petitions through her special power of attorney holder, namely, Puran Chand. The respective relief(s), as yearned in both these petitions, are extracted hereinafter:-

“Quashing of Criminal Complaint No.31096 dated 09.06.2010, filed under Sections 420, 406, 427, 466, 468, 471, 120-B of the IPC, which is subjudice before the learned Judicial Magistrate 1st Class, Jalandhar, along with all consequential proceedings arising therefrom;

AND

Quashing of Order dated 02.01.2015, whereby, the learned Chief Judicial Magistrate (NRI Cases), Jalandhar, has declared the petitioner as “Proclaimed Offender” in the Criminal Complaint (supra)”.

SUCCINCT FACTUAL MATRIX

2. As a matter of fact, upon the criminal complaint (supra) being filed by the respondent- Joginder Pal before the learned trial Court concerned, the latter proceeded to summon the petitioner and her father Puran Chand (hereinafter referred to as ‘petitioner’s father/co-accused’). Accordingly, though the petitioner’s father/co-accused did appear before the learned trial Court concerned, however, the petitioner did not cause appearance, which resulted in her being declared as “Proclaimed Offender” vide the impugned order dated 02.01.2015.

3. It would be worth to record here that upon making evaluation of the pre-charge evidence, as adduced by the complainant, the learned trial Court concerned, through drawing an order on 12.02.2016, discharged the petitioner’s father/co-accused for the offences, whereunder, he was summoned to face trial.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

4. The learned counsel for the petitioner, in his craving for the hereinabove extracted reliefs, has made twofold submissions before this Court.

5. Firstly, the learned counsel for the petitioner has placed heavy reliance upon the order dated 12.02.2016, to argue that, since thereby the petitioner’s father/co-accused has already been, for want of adduction of cogent evidence, discharged by the learned trial Court concerned, therefore, the petitioner also deserves being treated at par through quashing of the criminal complaint (supra).

6. Secondly, the learned counsel for the petitioner, in his assailing the impugned proclamation order dated 02.01.2015, has argued that, on the date when the criminal complaint (supra) was filed before the learned trial Court concerned, the petitioner was not residing in India, rather was already settled abroad and as such, she was not validly served, as required under Section 82 of the Cr.P.C.

REASONS FOR DISMISSING THE PRESENT PETITIONS

7. This Court has considered the arguments made by the learned counsel for the petitioner, however, is not inclined to grant the asked for reliefs. This inference stems from the hereinafter extracted reasons.

8. On 15.12.2023, when the present petitions came up for hearing before this Court, this Court had posed a specific query to the learned counsel for the petitioner, i.e. “*whether the petitioner is ready and willing to join the trial proceedings or not*”, whereupon, the latter had sought an adjournment for enabling him to get instructions from his client/petitioner in this regard.

9. Today, the learned counsel for the petitioner has informed this Court that, owing to lack of valid travel documents, the petitioner is unable to return to India, and, to join the trial proceedings. However, the reasoning (supra), as given by the learned counsel for the petitioner, appears to be a lame excuse, inasmuch as, neither any corroborative material in support of such reasoning has been placed on record, nor he has been able to convince this Court that the petitioner is not seized of any valid travel documents. In such circumstances, this Court is impelled to

draw an inference that return of the petitioner is not impeded for want of valid travel document, rather is impeded by her unwillingness to join the trial proceedings. The artificial *bona fide*, as woven by the learned counsel for the petitioner behind inability of the petitioner to return to India, emits a smell of *mala fide* intention of the petitioner.

10. Moreover, the extraordinary jurisdiction of this Court, as envisaged under Section 482 of the Cr.P.C., cannot be invoked by a person, who is declared as “Proclaimed Offender”, and, who is yet refusing to join the proceedings before the learned trial Court concerned.

11. Insofar as the claim of parity, as raised by the learned counsel for the petitioner is concerned, this Court does not find any merit in this argument. The reason for rejecting this argument ensues from the factum that, at this stage, it cannot be presumed that a similar and identical set of evidence, as led *qua* petitioner’s father/co-accused before the learned trial Court concerned, would be adduced against the present petitioner also. Nonetheless, this Court, in the instant proceedings, cannot evaluate and appreciate the evidence, as led by the complainant against the petitioner’s father/co-accused, to conclude that subjecting the petitioner to trial would be prejudicial to her interests.

FINAL ORDER

12. For all the reasons (*supra*), this Court is constrained to dismiss the present petitions. Accordingly, both these petitions are hereby **dismissed**.

February 05, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No