

2025:PHHC:125015



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

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CRM-M-4980-2022 (O&M)

Date of decision: 11.09.2025

Gagan Deep Uppal @ Gagan Deep Singh and another ... Petitioners

vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rahul, Advocate for
Mr. Amit Dhawan, Advocate for petitioner No.2.

Mr. Jasjit Singh, DAG, Punjab.

Dr. Anandeshwar Gautam, Sr. Panel Counsel, Union of India.

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of the FIR No.419 dated 31.10.2002 registered under Sections 494, 511, 420 IPC at Police Station Nakodar, Tehsil Nakodar, District Jalandhar and order dated 04.03.2003 (Annexure P7), whereby petitioner No.2 was declared proclaimed offender.

2. Learned counsel states that the present petition qua petitioner No.1 already stands disposed of as having been rendered infructuous vide order dated 08.01.2024, as he was acquitted by the trial Court vide judgment dated 06.08.2022, Annexure P-19. In so far as, petitioner No.2 is concerned, he restricts his prayer only to quash the order dated 04.03.2003 and with regard to quashing of the FIR, he withdraws the present petition with liberty to take all pleas at the relevant time before the Court of competent jurisdiction.

3. Learned counsel submits that the present FIR registered by the complainant/respondent No.2 on 31.10.2002, is borne out of matrimonial discord between her and petitioner No.1, who is the real brother of petitioner No.2. They approached this Court by filing CRM-M-29247-2021 for quashing of orders dated 04.03.2003 and 26.03.2004 vide which they were declared proclaimed offenders and the same was disposed of on 28.09.2021 with the following observations:-

“I have heard learned counsel for the parties and have perused the paper book. Admittedly, the petitioners herein have been nominated in the said FIR. The petitioner No.1 is former husband of the complainant whereas Sandeep Kumari, petitioner No.2 is the sister-in-law i.e. sister of petitioner No.1. Both the petitioners are currently residing in England and are ready to come back to India to face trial. Consequently, this petition is being disposed of by staying arrest of the petitioners herein limited for a period of four weeks to enable them to come back to India and to move an appropriate application before the trial Court praying for setting aside of the orders dated 04.03.2003 and 26.03.2004 whereby they have been declared as proclaimed offenders. On their appearance, they will be admitted to interim bail by the trial Court.”

4. Learned counsel submits that petitioner No.2 has not been granted Visa as she is married a Pakistani National, and as such, was not able to appear before the trial Court, while her brother-petitioner No.1 did and granted bail as stated in para 16 of the petition. She was abroad, when the above-noted FIR was registered, whereafter she never visited India and was declared proclaimed offender without following the procedure as envisaged under Sections 41, 105 and 82 Cr. P.C. A reference is also made to a Notification issued by the Government of India Ministry of Home Affairs, IS Division-II:Legal Cell New Delhi, dated the 11th Feb, 2009, laying down comprehensive guidelines in this regard of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to

the service of summons/warrants/judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreements with 22 countries which provide for serving of documents. Thus, the proclamation proceedings being in violation thereof are liable to be set aside, however, she is ready and willing to surrender before the trial Court for which she seeks only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate. Moreover, he prays for liberty to file an application seeking Visa to the Indian Embassy and a direction to grant the same so as to facilitate her travel to India and join the proceedings.

5. Learned State counsel submits that the trial Court has rightly passed the order as petitioner No.2 did not appear before the Court and evaded the proceedings.

6. Learned counsel appearing for the Union of India submits that in case petitioner No.2 is granted an opportunity to surrender, for which she files an application for Visa, it shall be considered in accordance with law, keeping in view the facts of the present case, so as to allow her to join proceedings within the time frame prescribed by this Court.

7. Heard the learned counsel on either side.

8. In the case of **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 2.6.2022, since the petitioner therein was a Non Indian Resident residing in Canada and proclamation proceedings had been initiated while she was not in India, as such, the order of proclamation was set aside.

9. Similarly, in **Jaswant Singh vs. State of Punjab and another**, CRM-M-32011-2018, decided on 6.2.2020, this Court in the interim order

dated 10.9.2018, noticed the submission made by the counsel for the petitioner relying on the photocopy of the passport (Annexure A-1) that the petitioner was not in India at the time of registration of FIR on 29.10.2009, as well as, on the day, when he was declared proclaimed offender vide order dated 28.4.2014 and even on the date of passing of the above order, as he was in Italy, directed him to surrender before the trial Court, upon which interim bail was ordered to be granted to him.

10. The very purpose of issuance of summons, warrants etc. is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

11. Adverting to the facts of the present case, inasmuch as, it was because petitioner No.2 had been residing in Scotland prior to the registration of FIR, and the procedure as envisaged by the Code not followed in letter and spirit, she could not be served and as such, her explanation for absence appears to be justified. However, it is incumbent upon her to join the proceedings, before the trial Court, for the culmination of the same. Considering her absence not being willful and deliberate and no prejudice shall be caused to the complainant, rather her to join the proceedings would help in expediting the trial, which is in the interest of the parties thus, in order to meet the ends of justice and on finding judgments referred to above being applicable to the instant case, she deserves an opportunity.

12. Accordingly, the impugned order dated 04.03.2003, Annexure P-7, is set aside, subject to surrender by the petitioner before the trial Court within a period of three months and payment of costs of Rs.25,000/- to be deposited with Chandigarh Spinal Rehab, Plot No.1, Sector 28-A, Chandigarh. On furnishing bail/surety bonds, the trial Court shall release her

on bail subject to its satisfaction. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case. Till then, no coercive steps be taken against the petitioner.

13. Disposed of accordingly.

14. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

11.09.2025

ashok

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No