

CRM-M-49773-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49773-2023 (O&M)

Date of Decision:- 29.01.2025

Baljit Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Dhruv Singh, Advocate for
Mr. Sunil Pawar, Advocate
for the petitioners.

Mr. Japjot Singh, AAG, Punjab.

Mr. M.S. Sachdev, Advocate
for respondent No. 2 (through Video Conferencing).

AMARJOT BHATTI, J.(Oral)

Petitioners Baljit Singh, Sukhdev Kaur and Raminder Kaur have filed petition under Section 482 Cr.P.C. for quashing of impugned order dated 07.12.2007 (Annexure P-2) passed by learned Judicial Magistrate First Class (NRI cases), Jalandhar, whereby petitioners were declared Proclaimed Offenders in FIR No. 57 dated 17.05.2007 under Section 406, 498-A, 500, 506, 465, 471, 420, 120-B of IPC registered at Police Station Lambra, District Jalandhar (Annexure P-1), considering the facts and circumstances of case or the Court may pass any appropriate direction which it may deem fit in the given facts and circumstances of case.

2. Facts of the case are complainant Kulwinder Kaur filed written complaint No. 13-2/C dated 26.03.2007 to Senior Superintendent of Police against her husband Baljit Singh and others with the allegations that she got married with Baljit Singh according to Sikh religious rites on 30.06.2001. She performed her matrimonial obligations. After few days Baljit Singh complained that marriage party was not as per status of his family. She was taunted for inadequate dowry. Behaviour of Baljit Singh became aggressive and hostile towards her. She tried to adjust in matrimonial home. Accused No. 1 promised to take her to USA and for that purpose he sponsored her and sent necessary documents. She went to USA Embassy where she was informed that her sponsorship has been withdrawn by her husband. Accused No. 1 was raising demand of Rs. 15 lacs to sponsor her to USA. Complainant tried to contact her husband but he insisted on his demand. Family of complainant contacted accused persons to rehabilitate complainant but they refused. She received certain papers regarding filing of joint petition for divorce alongwith Baljit Singh. She never agreed for divorce and some other person impersonated her and forged her signatures. She requested her in-laws family to return her dowry articles but they refused. Ultimately, she filed complaint on the basis of which present FIR has been registered.

3. Learned counsel for petitioners argued that marriage of petitioner No. 1 and complainant took place long time back on 30.06.2001. Thereafter, petitioner went to USA in the same year and sent papers for calling complainant to USA. During this period, differences arose between them. Her papers were cancelled and communication stopped between

them. In the year 2003, petitioner No. 1 got a decree of divorce from the Court in USA and remarried in the year 2004. Thereafter, complainant lodged this FIR. After a gap of few months, complainant also got married and now she is settled in England. Petitioners were not aware of proceedings which were going on in India. They were never served by any process or through non-bailable warrants of arrest. No effort was made by trial Court to follow procedure to summon petitioners through concerned Embassy. Complainant was fully aware of their addresses. They have annexed certified copy of impugned order dated 07.12.2007 (Annexure P-2) vide which they were declared proclaimed offenders. Trial Court did not follow comprehensive guidelines (Annexure P-3) to effect their service in the said criminal proceedings. There was clear violation of Section 105 Cr.P.C. At present, petitioner No. 1 as well as respondent No. 2 are married and well settled in their respective families. Therefore, a compromise was arrived at and affidavit of Sukhwinder Singh, brother of respondent No. 2 who is also her Power of Attorney holder is Annexure P-4. Regarding quashing of FIR, petitioners have filed separate CRM-M-12942-2024, which is pending in this Court. Learned counsel for petitioners pointed out that in pursuance of order dated 15.01.2024 passed by this Court, petitioners have appeared and joined investigation. Impugned order dated 07.12.2007 is kept in abeyance. They are still ready to abide by terms and conditions imposed by this Court. It is prayed that present petition for quashing of impugned order dated 07.12.2007 may be accepted, as prayed for.

4. On the other hand, learned counsel representing respondent No. 2 contested petition on the ground that petitioners were fully aware of proceedings which were going on in connection with FIR No. 57 dated 17.05.2007 (supra) (Annexure P-1). They deliberately did not join investigation at appropriate stage. Therefore, learned Judicial Magistrate First Class started proceedings under Section 82 of Cr.P.C. and after following due procedure passed impugned order dated 07.12.2007 (Annexure P-2) declaring them as proclaimed offenders. Arguments advanced by learned counsel for petitioners regarding alleged compromise (Annexure P-4) it is pointed out that it does not pertain to present petitioners. There are serious allegations against petitioners and after proper investigation, present FIR was registered. They knowing fully well avoided the process of law. Considering the aforesaid factual position, petitioners are not entitled to any relief.

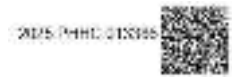
5. Learned counsel representing State admitted the factual position regarding registration of FIR and passing of impugned order dated 07.12.2007 (Annexure P-2). However, it is confirmed that in pursuance of order dated 15.01.2024 passed by the Coordinate Bench, petitioners have joined investigation.

6. I have considered the arguments and have gone through the record carefully. Present petitioners were declared proclaimed offenders by passing impugned order dated 07.12.2007 (Annexure P-2). At this point, it is made clear that after Insertion by Act 25 of 2005, sec. 12 (w.e.f. 23-6-2006), present petitioners should have been declared proclaimed persons instead of proclaimed offenders, as according to Section 82(4), only

persons involved in offence detailed therein are to be declared proclaimed offenders. Contents of FIR clearly indicates that after marriage of respondent No. 2 with petitioner No.1 on 30.06.2001, after some time petitioner No. 1 had gone to USA. This fact was in the knowledge of respondent No. 2. Learned counsel for petitioners have annexed copies of Passports of Baljit Singh petitioner No.1, Raminder Kaur petitioner No. 3 who are citizens of USA, whereas, Sukhdev Kaur petitioner No. 2 is having Indian Passport. Process was being issued qua petitioners No. 1 and 3 by showing their address of village Partapura, Police Station Lambra, District Jalandhar. Learned counsel for petitioners annexed process issued to procure presence of petitioners as well as proclamation which was issued against Sukhdev Kaur (Annexures P-6 and P-7), Raminder Kaur (Annexure P-8) and Baljit Singh (Annexure P-9) which shows that they were residing in foreign country. Therefore, despite knowledge to prosecution that petitioners were residing in foreign country i.e. USA, there was no effort to serve them either through publication in unrestricted newspaper or through their Embassy by following proper procedure. Therefore, it cannot be said that petitioners were aware of proclamation proceedings which were going on in India in FIR No. 57 dated 17.05.2007 (supra) (Annexure P-1).

7. Apart from this, at present petitioners have joined investigation in pursuance of order dated 15.01.2024 passed by the Coordinate Bench. Their presence has been procured and they are ready to abide by terms and conditions imposed by this Court.

In the light of this, without going on the merits of case, petition filed by petitioners Baljit Singh, Sukhdev Kaur and Raminder Kaur



is accepted and impugned order dated 07.12.2007 (Annexure P-2) is accordingly, quashed and order passed by Coordinate Bench dated 15.01.2024 is made absolute subject to same terms and conditions.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

29.01.2025
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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No