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

2025:PHHC:136136



**CRM-M-62597-2023 (O&M)
Reserved on: 11.09.2025.
Date of decision: 19.09.2025.**

HIRA SINGH

...Petitioner(s)

VERSUS

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Piyush Sharma, Advocate,
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

Mr. H.P.S. Rahi, Advocate,
for respondent No.2.

VINOD S. BHARDWAJ, J.

Seeking quashing of FIR bearing No.130 dated 17.06.2013 under Section(s) 420 and 120-B of the Indian Penal Code, 1860 (Section 120-B IPC deleted later on) registered at Police Station Sadar, Ferozepur, District Ferozepur along with all other consequential proceedings arising therefrom including the order dated 17.12.2019 passed by the Additional Chief Judicial Magistrate, Ferozepur, the instant petition has been filed.

2 Learned counsel appearing on behalf of the petitioner(s) contends that the petitioner is brother-in-law of respondent No.2-complainant and the present case has been registered only to pressurize his sister Palwinder Kaur (wife of respondent No.2-complainant) to effect compromise in case FIR No.74 dated 27.04.2013 registered under Sections 406, 498-A and 120-B of the Indian Penal Code, 1860, at Police Station Bhikhiwind, District Tarn Taran.

3 He submits that as per the allegations leveled in the FIR registered at the instance of respondent No.2-complainant Chamkaur Singh son of Pargat Singh, he alleged acts of forgery committed by Gurpal Singh, Hira Singh (petitioner herein), Surinder Kaur, Inderjit Singh Uppal, Aatma Singh, and Kulwinder Singh. It is significant to note that Gurpal Singh, one of the accused, is the brother of the petitioner, while Surinder Kaur, another accused, is his mother. The complainant, Chamkaur Singh, had married Palwinder Kaur, sister of the petitioner, in the year 2011. It has been alleged that the accused, being close relatives and family members were collectively involved in duping the complainant of his hard-earned money. Importantly, even as per the allegations in the complaint, the petitioner himself was residing in Italy at the relevant time.

4 He submits that it is alleged that Gurpal Singh, brother of the petitioner, represented to the complainant that he had influence and connections in the Army, Police Department, and CISF and that he could secure induction in service. On 01.11.2012, Gurpal Singh, along with Inderjit Singh Uppal and Kulwinder Singh is stated to have visited the complainant's house. At that time, Gurpal Singh introduced Inderjit Singh Uppal as a Captain in the CISF and Kulwinder Singh as the person having connections in the Police Department. By such representations, the complainant was induced to believe that they could secure the recruitment of his brother, Gurjinder Singh, as a Constable in the

Punjab Police. During negotiations, the above accused persons allegedly demanded a sum of Rs.5 lakhs, which sum was ultimately settled at Rs.4 lakhs. Similar assurances were allegedly extended with respect to appointments of other persons, and accordingly, various amounts were paid to Inderjit Singh Uppal as well as to his father Aatma Singh. However, when no such appointments materialised and upon the complainant learning that Inderjit Singh Uppal was not, in fact, a Captain in the CISF or Armed Forces, he demanded a refund of the amounts paid. The accused persons allegedly refused to return the money.

5 He submits that it has further been alleged that the accused persons also took away Palwinder Kaur i.e. the complainant's wife, who was unwell due to pregnancy, under the pretext of her treatment at DMC, Ludhiana, and thereafter started demanding additional sums on the threat of implicating the complainant in false cases. On the aforesaid allegations, the impugned FIR in question came to be registered.

ARGUMENTS BY PETITIONER

6 Learned counsel for the petitioner contends that even from a bare perusal of the allegations in the FIR no case is disclosed against the petitioner, inasmuch as, on the date of the alleged occurrence i.e., 01.11.2011, the petitioner was not in India. It is submitted that, as evident from the petitioner's passport, he was residing in Italy at the relevant time. No role of any nature is attributed to him. During investigation, both the petitioner and his brother were found innocent and were exonerated in the final report filed on 03.11.2015, which was presented only against Daljit Singh.

7 It is further argued that the petitioner had never visited India during the year 2018, as at that time his wife Prabhleen Kaur was suffering from various ailments, thereby preventing him from maintaining contact even with his family

members. In the charge-sheet filed, accused Inderjit Singh was declared a proclaimed offender, and proceedings were initiated against the remaining accused. Subsequently, vide order dated 17.12.2019, the learned trial Court, in exercise of powers under Section 319 Cr.P.C., summoned the petitioner along with other family members as additional accused. The petitioner, being a permanent resident of Italy, was never duly served. Thereafter, owing to the Covid-19 pandemic, the matter was adjourned on long dates. The zimni orders subsequent to 17.12.2019 have also been placed on record with the present petition. Notwithstanding specific intimation to the trial Court regarding the petitioner's residence abroad, warrants of arrest were issued, followed by non-bailable warrants and ultimately a declaration of the petitioner as a proclaimed person notwithstanding that none of the above were served on petitioner. Meanwhile, proceedings against the co-accused continued.

8 He further submits that the Additional Chief Judicial Magistrate, Ferozepur, vide judgment dated 02.02.2023, acquitted the accused persons after recording that the allegations were inherently unbelievable and appeared to have been levelled only with the intent to implicate the petitioner and his family members. The testimony of the complainant, Chamkaur Singh, and his father, Pargat Singh, was found to be untrustworthy and was disbelieved. The trial Court further observed that no element of conspiracy, cheating, or payment in the manner as alleged, stood established. The Court also noted that mere stray financial transactions could not, by themselves, be regarded as indicative of criminal intent. He further submits that the aforesaid judgment of acquittal was challenged by the State before the Sessions Court, Ferozepur, however, vide judgment dated 01.05.2024, the appeal preferred by the State was also dismissed.

9 Learned counsel for the petitioner contends that the documentary

evidence, viz the passport details of the petitioner, conclusively establish that he was not in India, when the alleged incident(s) are stated to have occurred and at any other time when the alleged monetary transactions are said to have taken place. It is urged that this fact was duly verified, and the passport entries fully corroborate the petitioner's claim and it remains undisputed by the respondent-State.

10 Counsel submits that once the allegations of the complainant, Chamkaur Singh and the testimony of the prosecution witnesses themselves stood discredited by the trial Court and given that the petitioner's case is on a stronger footing than the other co-accused as he was never present in India at any of the relevant times, there is no justification for subjecting him to the ordeal of a criminal trial merely to establish his innocence, more-so the prosecution has already failed to substantiate its case against the other accused.

11 It is further submitted that the trial Court itself recorded that the involvement of the petitioner's family members was a counter blast to the matrimonial discord between the petitioner's sister and the respondent-complainant. The present proceedings, it is urged, were thus initiated with the sole intent of wreaking vengeance and exerting undue pressure upon the petitioner and his family to coerce Palwinder Kaur into a settlement. The initiation and continuation of such proceedings, it is argued, amounts to an abuse of the process of law only to harass the petitioner and his family members into succumbing to the unlawful demands of the complainant.

12 The State did not file any reply disputing the averments and arguments noticed above.

13 Learned counsel for respondent No.2-complainant Chamkaur Singh had entered appearance and filed his Vakalatnama and even he stated that he

does not intend to file any separate reply.

ARGUMENTS BY RESPONDENTS

14 No substantive argument has been raised by the State counsel.

15 Learned counsel for the respondent No.2-complainant, on the other hand, contends that the petitioner cannot seek quashing of the FIR and the other proceedings including the proclamation order as he had absconded from the process of law. Hence, no indulgence ought to be extended to him. He submits that other co-accused have faced the prosecution and as such, the petitioner is required to undergo trial and earn his acquittal. Reliance is placed on the judgment of the Hon'ble Supreme Court in the matter of *Sudo Mandal @ Diwarak Mandal Vs. State of Punjab, reported as 2011 (2) RCR (Crl.) 453.*

16 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present petition and the judgments relied upon.

CONSIDERATION AND DECISION

17 The factual aspects alleged by the petitioner remain uncontested to the effect that as on the date of occurrence i.e. on 01.11.2011 and at different points in time when the financial transactions have been alleged to have taken place with the other co-accused, the petitioner was not in India and he was in fact in Italy. It is further undisputed that the criminal proceedings against the co-accused and the petitioner's family members culminated in their acquittal by the final judgment of the trial Court. It is also not disputed that both the petitioner and his brother were found innocent during investigation, and that the petitioner was summoned only subsequently in exercise of powers under Section 319 Cr.P.C. Equally undisputed is the fact that service of summons was never effected upon the petitioner.

18 During the trial, the respondent No.2-complainant Chamkaur Singh appeared as PW-1, while his father, Pargat Singh, was examined as PW-4, along with other witnesses adduced by the prosecution in support of its case. The accused persons, being members of the petitioner's family, also led evidence in defence. It was the case of the defence that only a sum of Rs.20,000/- had been credited to the account of Gurpal Singh on 17.02.2012 at the Bhikhiwind Branch, which is situated near his native village. At the relevant time, Gurpal Singh was serving in the Army and posted at Ahmedabad. It was contended that he required money for the purchase of air tickets. The said sum of Rs.20,000/- had been handed over by Surinder Kaur, mother of the petitioner, to Chamkaur Singh for deposit into Gurpal Singh's account, to enable him to purchase the air tickets to attend a marriage ceremony. This fact was also acknowledged by Chamkaur Singh during his cross-examination. The photographs of the said marriage were duly exhibited in evidence. The relevant part of the consideration and finding recorded by the trial Court are extracted as under:-

“16. The points of determination in the case are as follows:-

- 1. Whether prosecution has proved that accused had induced the complainant to deliver money on the pretext of providing Job or accused were entrusted with any money?*
- 2. Whether prosecution has been able to prove the criminal conspiracy by the accused to deceive the complainant?*
- 3. Whether prosecution has proved that accused have committed the offence under Section 420 read with Section 120- B IPC?*
- 4. Whether prosecution has proved that accused have committed*

the offence under Section 406 read with Section 120- B IPC?

POINT NO.1

17. As per the version of the complainant, Chamkaur Singh was induced by Gurpal Singh, Inderjit Singh, Kulwinder Singh to provide Job as Constable in CISF on 1.11.2011. In the same occurrence, Gurjinder Singh was promised to be provided job as Constable in Punjab police for an amount of Rs.4 lacs and Nishan Singh son of Sukhwinder Singh was also promised a Job of Constable for amount of Rs.2,70,000/- . Further allegations are that the other accused persons had connived and had received payment on different occasions. Thus complainant Chamkaur Singh is the main witness of the prosecution to prove inducement and payment of money.

18. In the examination-in-chief, Chamkaur Singh has stated the same version as stated by him in his application moved to the SSP which is Ex.P1. The application is undated. However, from the endorsement of SSP, it is revealed that endorsement was made on 9.2.13. The alleged inducement was on 1.11.2011 but application is moved on 9.2.13 after two years. The alleged last payment was made on 18.6.12 to Surinder Kaur. There is delay since the alleged last payment also. Other relevant facts surrounding the dispute are that Gurpal Singh and Hira Singh are brothers-in-law of Chamkaur Singh. Surinder Kaur is mother-in-law of complainant Chamkaur Singh. Chamkaur was married to Palwinder Kaur on 25.2.11. FIR No.74 dated 27.4.13 under Sections 498-A/406 IPC Ex.DW1/A was registered against Chamkaur Singh and others on the statement of Palwinder Kaur. In this backdrop, testimony of Chamkaur Singh is required to be evaluated.

19. Chamkaur Singh has deposed in the cross-examination that he was married to Palwinder Kaur in February 2011. That there

was matrimonial dispute after the marriage and FIR No.74 dated 27.4.13 was registered against him. The allegations of alleged inducement are of 1.11.2011 i.e. within the year of the marriage. It is alleged that Gurpal Singh alongwith Inderjit Singh Uppal and Kulwinder Singh had come to his house to get him recruited in CISF as Constable and his brother as Constable in Punjab Police. That on 3.11.11, Rs.49,500/- was paid in the account of Inderjit Singh. Inderjit Singh is proclaimed under Section 82 Cr.P.C in this case. This amount is not paid to any of the accused facing trial. Further allegations are that Rs.50,000/- cash was given to Atma Singh on the asking of Gurpal Singh on 13.11.11. On 1.12.12, Rs.40,000/- was paid in the account of Inderjit Singh. When complainant was aware of bank transactions, it is highly improbable that he will pay Rs.50,000/- in cash to Atma Singh. That on 10.2.12, he paid Rs.40,000/- to Hira Singh. On 17.2.12, he paid Rs.20,000/- in the account of Gurpal Singh. That on 20.2.12, Rs.70,000/- was paid in cash to Gurpal Singh. Conduct of the witness is improbable as smaller amounts are paid through bank and bigger amount of Rs.50,000/-, Rs.40,000/- and Rs.70,000/- are allegedly paid in cash. Further allegations are that on 24.5.12, Rs.20,000/- was deposited in the account of Gurpal Singh and on 28.5.12 Rs.20,000/- was again deposited. Account statement is also brought on record and there is no doubt that certain bank transfers are there. But the question remains whether said transfers are part of a transaction whereby complainant was induced to deliver the money on the pretext of provide a Job or the payment was otherwise.

20. Defence has taken a specific stand that Palwinder Kaur was not well during her pregnancy. That she was residing in her parental house at Bhikhiwind with accused Gurpal Singh and Surinder Kaur. This fact is not denied by Chamkaur Singh. Chamkaur Singh has further admitted that she was getting treatment from DMC, Ludhiana. Although, he has denied that his

in-laws family was bearing the expenses of hospital but he has stated that he himself was paying the expenses when his wife was not well and she was taken care of by Surinder Kaur. It is not unnatural that husband would be paying some of the expenses incurred for taking care of her. If small amounts of Rs.20,000/- or Rs.25,000/- have been paid in the account of Gurpal Singh on 24.5.12 or 28.5.12, it cannot relate to the alleged inducement on 1.11.11. Gurpal Singh has further argued that amount of Rs. 20,000/- was paid on 17.2.12 in his account at Branch Bhikhiwind and said amount was made so that he could purchase the air tickets. This version of the defence is established from the fact that he attended the marriage after getting the flight and witness has admitted the photographs Ex.DW1/D to Ex.DW1/E and Ex.DW1/G. Moreover, Gurpal Singh was serving in Army. It is highly improbable that anybody would ask to make payments of ill gotten money in his accounts. Thus amount was received by Gurpal Singh in his account in a bonafide belief that he was getting the money as a help from Chamkaur Singh and further he alongwith Surinder Kaur were already taking care of Palwinder Kaur wife of complainant Chamkaur Singh.

21. Complainant has tried to create evidence so as to show certain payment is made in cash. PW4 Pargat Singh father of complainant Chamkaur Singh has joined hands to create evidence that he borrowed money by mortgaging his land to Nachattar Singh. As per version put forth by Pargat Singh, he mortgaged his land. He has not stated in his examination-in-chief to whom he mortgaged his land. PW3 Nachattar Singh stated that Manjit Singh son of Piara Singh took Rs.2,50,000/- from him by mortgaging his gold ornaments. The witness was cross-examined by learned APP also, when he stated that he had taken the land on mortgage from Pargat Singh and paid Rs.2,50,000/. The testimony is not believable. Whether he paid Rs.2,50,000/- to Manjit Singh or to Pargat Singh is not clear. Mortgage of land

worth more than Rs.100/- can be effected through registered mortgage deed. No document is brought on the file to prove any such mortgage. Pargat Singh in his cross-examination states that the khasra girdawaries are still in the name of co-sharer. Thus, no possession was ever transferred to Nachattar Singh. Thus, claim of the prosecution that Pargat Singh contributed Rs.2,50,000/- to be paid to the accused persons is falsified.

22. Adverting to the circumstances of the case. There was a matrimonial dispute which culminated in registration of FIR against Chamkaur Singh on 27.4.13. Although, application Ex.P1 was moved to the police on 9.2.13 i.e. before registration of FIR but a matrimonial dispute does not result in FIR in a moment. It takes time . The families try to settle the dispute between the parties. The mediators contribute to settle the dispute without intervention of the courts. When all efforts fail, only then parties take recourse to legal action. Thus proximity of FIR dated 27.4.13 to the application moved by complainant on 9.2.13 casts serious doubt regarding the veracity of allegations made by Chamkaur Singh. If there is any settlement for providing job, it is highly probable that payment would be made over a span of one year and in small amounts. The cash payments allegedly made by complainant are not proved. Another relevant circumstance is that matrimonial came to an end by filing of petition under Section 13-B Ex.DW1/B on 31.3.15. If any dispute had remained between the families, there was no occasion to Chamkaur Singh to settle the dispute. As per Para No.6 of the petition, FIR No.74 dated 27.4.13 was also agreed to be get quashed by filing petition before the Hon'ble High Court. Even the Investigating Agency had found that all the allegations against accused persons were unfounded and challan was filed against Inderjit Singh Uppal only. Thus, the testimony of complainant and PW4 Pargat Singh is not creditworthy to prove that there was any inducement by the accused persons to deliver

any money. So far as, meager amount transferred in the account of accused Gurpal Singh is concerned, no criminal intent can be attached to such delivery of money.

23. In view of the above discussion, this point is decided against the prosecution.

POINT NO.2

24. Major amount of Rs.49,500/- was paid in the account of Inderjit Singh on 3.11.11 and amount of Rs.40,000/- was paid in his account on 1.12.12. The other allegations are regarding payment of cash or small amount in the account of Gurpal Singh which cannot be connected with alleged inducement on 1.11.11. Prosecution has failed to connect the transactions of Rs.49,500/- dated 3.11.11 and Rs.40,000/- on 1.12.12 with the accused persons. Merely because Atma Singh is father of accused Inderjit Singh Uppal is not sufficient to say that he had ever conspired to commit cheating with complainant. Similarly the allegations that payments were made on the asking of Hira Singh, Kulwinder Singh or Gurpal Singh are also vague and are not sufficient to prove any criminal conspiracy under Section 120-B IPC. Therefore, this point is also decided against the prosecution.

POINTS NO.3 & 4

25. Repetition of discussion is avoided for the sake of brevity. In view of discussion on issue No.1, the testimony of complainant Chamkaur Singh and his father PW4 Pargat Singh is not creditworthy. There is reasonable doubt in the story put forth by both of them. Benefit of doubt goes to accused persons. Both these points are decided against the prosecution.

26. In view of the above discussion, all the accused are acquitted acquitted from the charges by giving them benefit of doubt. Bail bonds and surety bonds stands discharged. Intimation be sent to

the concerned authority. Personal search articles, if any, be returned after proper receipt and after due identification. File be consigned to record room. Evidence against accused Inderjit Singh Uppal is closed under Section 299 Cr.P.C. Be put up as and when he appears or brought before the Court. ”

19 It is evident from the foregoing that the trial Court specifically recorded findings to the effect that the testimony of respondent No.2—complainant, Chamkaur Singh as well as his father Pargat Singh was carefully scrutinised and that the alleged monetary transactions bore no nexus with the allegations of inducement for securing appointments. The Court also observed that the complainant had attempted to fabricate evidence while his father merely supported him in narrating the version advanced. The claim regarding the mortgaging of land was found to be unsubstantiated and the testimony was held to be unreliable and unworthy of belief even as to whether the amounts in question were ever actually transferred. The trial Court also took note of the fact that there existed matrimonial discord culminating in the registration of FIR No.74 dated 27.04.2013 against respondent No.2—complainant, Chamkaur Singh. Although efforts were made by the family to settle the dispute between the parties, the same proved unsuccessful. The instant FIR was registered on 17.06.2013 i.e. in close proximity to the failure of the aforesaid settlement. The Court further recorded that it was highly improbable that payments would be made over such an extended period and in small installments when the transaction was allegedly for securing a government job.

20 Undisputedly, the respondent-State had also preferred appeal before the Court of Sessions. The Additional Sessions Judge-cum-Fast Track

Court, Ferozepur, vide the judgment dated 01.05.2024 upheld the acquittal of the co-accused. The operative part of the said judgment reads thus: -

“15. The moot point which requires consideration in the present case is that as to whether complainant has been able to prove the alleged allegations leveled by him with regard to commission of offence of cheating by the respondent-accused i.e. by inducing him to deliver hefty amount on false pretext to get him recruited in any department and thereafter, misappropriation of the amount allegedly advanced by the complainant to the respondents-accused and as to whether same are sufficient to establish the guilt of the respondents-accused, beyond shadow of reasonable doubt?

16. Here in the present case, Chamkaur Singh (complainant) while moving application before Senior Superintendent of Police against the respondents-accused, who are members of in-laws family, has leveled allegations that some of the members of his in-laws family under false assurance to get him recruited in the Department, induced him to deliver hefty amount and under said allurement, received 6,89,500/- same was paid on different occasions, details of which has been elucidated in the application but lateron, he came to know that fraud has been committed by the respondents-accused and on demand, accused instead of returning the amount, hurled threatenings to implicate him in false cases, thus cheated him. The allegations leveled by the complainant were inquired by the Senior Police Officials and since, Inderjit Singh Uppal was held responsible, thus report under Section 173 Cr.P.C. was prepared and presented against him. Vide Order dated 15.09.2015, said Inderjit Singh Uppal was declared as Proclaimed Offender vide order dated 15.09.2015. It is apposite to mention here that, respondents-accused were ordered to be summoned under Section 319 Cr.P.C., on the basis of application moved by prosecution, which was allowed vide

order dated 17.12.2019.

17. But, it is a unique case where defence version is more probable than the prosecution story. Perusal of FIR bearing No.74 dated 27.04.2013 Ex.DW1/A reveals that, same was registered against Chamkaur Singh (complainant) by Palvinder Kaur (wife) , since there remained matrimonial dispute between them and lateron, they both filed joint petition under Section 13-B of Hindu Marriage Act Ex.DW1/B for decree of divorce with mutual consent. Admittedly, there is inter-se relation between both the complainant and accused party as Surinder Kaur (respondent-accused) is mother in law of complainant whereas, Kulwinder Singh (respondent-accused) is son in law of aunt of Palvinder Kaur (wife); Gurpal Singh (respondent-accused) is brother in law of complainant and Atma Singh (respondent-accused) is Member Panchayat. The respondentsaccused, at the time of recording their statements under Sections 313 Cr.P.C. have taken specific defence that they have been falsely implicated being members of in-laws of complainant on account of matrimonial dispute exists between complainant and his wife and present FIR is mere a counter blast to the FIR got lodged by Parvinder Kaur (wife) against complainant(husband). Thus, when the allegations and counter allegations leveled by both the parties considered, it leaves in no manner doubt that, neither there was any inducement on the part of the respondents-accused nor any alleged amount was ever received by the respondents-accused from the complainant with malafide intention. Had it been so, the complainant has miserably failed to produce on record any documentary proof, regarding giving of such amounts rather to the contrary, there is overwhelming evidence adduced in defence, which corroborate the factum that, since health of Parvinder Kaur(wife) during her stay at her parental house deteriorated, thus, she was got treated from DMC, Ludhiana and some of the amounts was paid by the complainant and, in such a

situation, some of the amounts were transferred, then it does not tantamount to the proof of the fact that, said amount was in lieu of providing some job to the complainant. Thus, above all, it leaves in no manner doubt that, neither there was any inducement on the part of the accused persons to delivery any amount nor the offence of cheating has been proved rather, false and baseless allegations have been leveled by the complainant, which in no way can be made basis for holding the accused guilty.

18. Thus, this court is of the considered opinion that there is no scope of interference in the well-reasoned judgment of acquittal passed by learned trial court. Hence, finding no merit in this appeal, same is dismissed and the judgment of learned trial court dated 02.02.2023 is up-held. Trial court file along-with copy of judgment be sent back. Appeal file be consigned to record-room.”

21 The aforesaid judgment has attained finality. It thus stands established that the prosecution miserably failed to prove the occurrence of offence in the manner as alleged and the credibility as well as the trustworthiness of the deposition of the complainant Chamkaur Singh (PW-1), and his father Pargat Singh (PW-4), were concurrently disbelieved by the Courts.

22 It is further established that the petitioner was never duly served, and no part of the cause of action is shown to have arisen during any period when the petitioner was present in India. Since the entirety of the alleged transactions took place at a time when the petitioner was residing abroad, the subsequent declaration of the petitioner as a proclaimed person was made in a mechanical manner and without adherence to the mandate of law.

23 The question which next comes up for consideration before this

Court is as to whether under such circumstances the FIR and all the consequential proceedings including the order declaring the petitioner-accused as a proclaimed person should be quashed in a situation when the co-accused stand acquitted.

24 Similar proposition came up for consideration before the Division Bench of this Court in the matter of *Sudo Mandal @ Diwarak Mandal Vs. State of Punjab, reported as 2011 (2) RCR (Crl.) 453.* In the said case there was trial in absentia. Five persons were involved in a murder case out of which two were arrested and three were declared as a proclaimed offender. The two accused who were tried were acquitted. The proceedings against the absconding accused were also quashed later on and after noticing that the evidence produced in the case was untrustworthy. The operative part of the aforesaid judgment reads thus: -

“Quashing of pending proceedings against other accused

22. While disposing of these two appeals, we are very much concerned about the absconding village rustic accused namely Badha Mandal, Kajiya Mandal and Sambodh Mandal, who had successfully evaded the dragnet of the police. The Investigating agency has put up a case implanting eye witnesses as against all the accused. Both the eye witnesses projected by the prosecution had not passed the test of trustworthiness. Their own showing would go to establish without any pale of doubt that they could not have witnessed the occurrence. The other materials produced by the prosecution also did not advance the case of the prosecution any further. The above facts and circumstances have persuaded us to come to a definite conclusion that the accused in this case were not the perpetrators of crime of murder as alleged by the prosecution. The same set of materials would be produced before the Sessions Court on production of the remaining three accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal. After

all the poor innocent labourers had migrated to other places to eke out their livelihood. The appellants herein had in fact suffered imprisonment for such a long time leaving behind their kith and kin, who might have been in dire need of financial support and help from them. Such an unpleasant situation shall not be created for the other three accused against whom also there is no material on record to fasten them with the charge of murder. We seriously pondered over rendering judicial succour to those faceless and voiceless accused who had taken to heals and hidden themselves apprehending the wrath of criminal proceedings for the heinous crime of murder. We are convinced that our judicial arm is not so crippled as to betray the vague hope of the hopeless.

23. *We are conscious of the fact situation that those three accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal had absconded and were declared as proclaimed offenders. They had not faced the trial, but when we find that no case could be made out as against them also with the very same rickety materials, those accused also will have to be relieved of the impending pain of facing the prosecution for murder. Section 482 of the Code of Criminal Procedure reads as follows :-*

"Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

24. *The above provisions recognise the inherent powers of the Court to do real and substantial justice, preventing the abuse of the process of the Court. The statutory recognition of the inherent jurisdiction of the criminal Court indicates that there is a power for the criminal Courts to make such an order as may be necessary to meet the ends of justice. We are conscious of the fact that the powers under Section 482 of the Code of Criminal Procedure are to be*

exercised very sparingly and in exceptional cases where abuse of the process of the Court would result in serious miscarriage of justice. The inherent powers of the Court should not be exercised to stifle legitimate prosecution. But at any rate the settled position is that this Court has the jurisdiction to quash the entire criminal proceedings to prevent the abuse of the process of the Court in order to secure the ends of justice. In our considered view the same inherent powers can be exercised when this Court finds that the innocent accused, who had absconded would simply face the empty formality of trial with the very same unbelievable and untrustworthy evidence, which would ultimately lead to their acquittal. Bringing the absconding accused to face the trial in this case in the above facts and circumstances would amount to abuse of the process of the Court. To secure the ends of justice, we hereby quash the entire proceedings as against the absconding accused namely Radha Mandal, Rajiya Mandal and Sambodh Mandal pending before Judicial Magistrate 1st Class, Bathinda/Sessions Judge, Bathinda, as no useful purpose will be served even if they are procured and ordered to face the trial in this case. ”

25 A similar view has also been taken by a Co-ordinate Bench of this Court in the matter of Harpreet Singh Vs. State of Punjab, passed in CRM-M-15822 of 2017 decided on 31.05.2023. The relevant part thereof reads thus:-

“3. Learned State counsel has not been able to refute the submissions that the prosecution failed to prove its case against the co-accused and that the same set of evidence exists against him. In addition, the petitioner had surrendered before the trial Court and was thereby granted bail. He opposes the petition on the ground that the petitioner had been declared proclaimed offender and is, therefore, not entitled for any relief. However, he is unable to controvert the fact of the judgment of the trial Court relating to the co-accused having attained finality, in absence of challenge made to it.

4. Heard the submissions of the learned counsel for the parties and perused the case file.
5. Noticeably, there being no material brought on record to show that service was effected upon the petitioner, residing in Austria, as contemplated by the provisions of Sections 82/83 read with Section 105 Cr.P.C, for declaring him a proclaimed offender. During the interregnum, the co-accused of the petitioner, who faced trial, were acquitted of the charges by the trial Court vide judgment dated 11.08.2004. As is apparent from the FIR, the same set of allegations exist against the petitioner.
6. Hon'ble The Supreme Court of India in the case of Deepak Rajak vs. State of W.B. (2007) 15 SCC 305 held that, after surrender, the benefit of acquittal in the case of co-accused on similar accusations can be extended. A Division Bench of this Court in the case of Sudo Mandal (*supra*) to secure the ends of justice, quashed the proceedings on the ground that the very same unbelievable and untrustworthy evidence based on which the co-accused, who faced the trial were acquitted, no useful purpose will be served even if presence of the absconding accused was procured to face the trial as the same would ultimately lead to their acquittal and it would amount to abuse of the process of the Court.
7. In the case of Pardeep Kaur vs. State of Punjab and another, CRM-M-33746-2018, decided on 09.07.2019, wherein the petitioner was residing abroad and was declared proclaimed offender and the co-accused, who faced trial were acquitted, this Court by following the judgment in the case of Sudo Mandal (*supra*), quashed the FIR as well as the order declaring the petitioner as proclaimed offender.
8. The petitioner cannot be treated differently on the basis of the same evidence adduced on which the co-accused were acquitted

*and there being no prospect of the case ending in conviction, the Delhi High Court in the case of **Sunil Kumar vs. State, 1999 (4) RCR (Crl.) 637**, by observing that it would be wasting the valuable of the Court to continue the trial and the accused-petitioner should not be made to undergo the ordeal of a trial, discharged the accused. The FIR was quashed in the case of **Gurpreet Singh alias Khinder vs. State of Punjab 1995(2) RCR (Crl.) 127**, wherein on similar circumstances, the petitioner, who was charged for an offence under Sections 3 and 4 of the Terrorist and Disruptive Activities (Prevention) Act, 1985, as well as, Sections 302/34 IPC, the co-accused, who were arrested stood acquitted by the trial Court. It was held that where the evidence is same, continuation of proceedings in the case of the petitioner would result in waste of Court's time and unnecessary expenditure on State exchequer.*

9. *This Court in the case of Jasvinder Singh (supra) held that the petitioner being a proclaimed offender, will not come in the way of quashing the FIR, as on the basis of the same allegations and set of evidence against him, the co-accused stood acquitted and thus, quashed the FIR.*

10. *Hon'ble The Supreme Court in **State of Karnataka v. L. Muniswamy, (1977) 2 SCC 699**, held that*

"In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceedings ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve a salutary public purpose which is that a Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind

a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has not to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects it would be impossible to appreciate the width and contours of that salient jurisdiction.”

11. It is pertinent to note that the petitioner has surrendered before the trial Court in pursuance to a direction passed by this Court on a prayer made in this regard and joined the proceedings.

12. The trial Court in its judgment as regards the co-accused of the petitioner are concerned, observed and held that,

“it is clear that witnesses of prosecution resiled from their statements and PW1 who was the Principal of that time did not come to face cross-examination and as per law, incomplete statement cannot be read in evidence. Moreover no occurrence took place in his presence. Material witnesses categorically stated that no occurrence took in their place who were cited as eyewitnesses. In these circumstances, I have left with no other alternative but to acquit the accused. I have left with no other alternative but to acquit the accused. Hence, they are acquitted.”

13. It is axiomatic that the occurrence as alleged in the complaint could not be proved to have even taken place. From the facts, the allegations that emerge are identical as against the petitioner and his co-accused. The same evidence exists against both sets

of accused. Thus, the fate of the present case virtually stands sealed by the acquittal delivered by the trial court in favour of the co-accused of the petitioner. The said judgment has attained finality. There being no separate and distinct case made out against him, the likelihood of the prosecution improving its case against the petitioner is non-existent, therefore, the continuation of proceedings against him would amount to an abuse of process of the law.

14. The peculiarity of facts and circumstances of the case at hand when considered in light of the law as expounded in the judgments referred to above, this Court finds, that benefit would enure to the petitioner by the acquittal of co-accused and to secure ends of justice, the FIR No.193 dated 10.05.1999 is quashed and order dated 06.08.2004 is set aside qua him.”

26 Thus, the position in law has been held to the effect that a mere declaration of a person as a proclaimed person should not stand in the way of quashing of the FIR along with all the consequential proceedings arising therefrom when the allegations have not been established in the judicial proceedings that had been concluded against the other co-accused and the testimony of the prosecution witnesses stands rejected and discredited by the Courts. It was held that any such proceedings would be clearly a wastage of precious judicial time.

27 The Hon'ble Supreme Court in the matter of ***Pradeep Kumar Kesarwani Vs. State of Uttar Pradesh & Another***, reported as **2025 SCC OnLine SC 1947** has held that if the Court is satisfied that the defence relied upon by the accused is reasonable and is of an impeccable quality and is undisputed and that continuation of the proceedings would amount to an abuse

of the process of law and would fail to serve the ends of justice, the High Court may quash the proceedings. The Hon'ble Supreme Court had placed reliance on the past precedent judgment in the matter of *Mohd. Wazid Vs. State of Uttar Pradesh and another*, reported as *2023 SCC OnLine SC 951* and noticed its concern about the wastage of judicial time that would not result in conviction and held that such cases would not only harm the accused but also overburden the Courts since such trials are waste of precious judicial time. The relevant extract of the judgment is as under: -

20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C. :—

- (i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?*
- (ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.*
- (iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?*
- (iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?*

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under Section 482 of the Cr. P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]

28 Upon examination of the undisputed facts of the present case, as also the principles laid down by the Hon'ble Supreme Court and by this Court, it stands established that the petitioner was abroad at all time when the alleged offence is stated to have taken place. Equally, the allegations levelled by respondent No.2-complainant regarding the transfer of money have been concurrently disbelieved by the Courts, and the trial against the co-accused, who faced proceedings in the petitioner's absence, culminated in their acquittal. The trial Court specifically recorded findings against respondent No.2-complainant, Chamkaur Singh and his father Pargat Singh and held that the proceedings had been initiated as an abuse of the process of law.

29 The judgment of acquittal of the co-accused having attained finality and there being no material whatsoever to suggest that any financial transaction ever took place between the complainant and the petitioner in relation to the allegations made, to compel the petitioner to undergo the rigours of a criminal trial on such frail and unsubstantiated evidence would not advance the ends of justice. On the contrary, it would result only in a wastage of precious judicial time, serving merely as a tool to satisfy the personal vendetta of respondent No.2.

30 It is a settled principle that no individual can be burdened with criminal proceedings that are a manifest abuse of process, nor can Courts be converted into instruments for the settlement of personal scores. Where the documents on record are unimpeached as to their validity and legality, and they strongly indicate a false implication of the petitioner, thereby showing that the trial is most likely to end in futility and result in an eventual acquittal, the High Court, in exercise of its inherent jurisdiction, is required to intervene and terminate such vexatious and mala fide proceedings at the threshold.

31 Consequently, I find that continuation of proceedings would be nothing more than an abuse of the process of law and the proceedings are most likely to end up in futility. The present petition thus deserves to be allowed. Hence, the FIR bearing No.130 dated 17.06.2013 under Section(s) 420 and 120-B of the Indian Penal Code, 1860 (Section 120-B IPC deleted later on) registered at Police Station Sadar, Ferozepur, District Ferozepur along with all other consequential proceedings arising therefrom including the order dated 17.12.2019 passed by the Additional Chief Judicial Magistrate, Ferozepur, are quashed.

31 Petition is allowed.

September 19, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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