

Mahender Singh Vs State of Haryana and Another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 16, 2013

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 482
Penal Code, 1860 (IPC) â€” Section 120B, 420, 506

Hon'ble Judges: Tej Pratap Singh Mann, J

Bench: Single Bench

Advocate: N.S. Shekhawat, for the Appellant;

Final Decision: Dismissed

Judgement

Tej Pratap Singh Mann, J.

The petitioner has filed the present petition u/s 482 Cr.P.C. with a prayer that order dated 1.7.2013 (Annexure

P-1) passed by the Judicial Magistrate 1st Class, Kurukshetra directing him to produce attested copy of the passport of his son, be quashed. FIR

No. 33 dated 29.4.2006 under Sections 420/506/120-B IPC was registered at Police Station Jhansa, District Kurukshetra at the instance of the

petitioner against respondent No. 2-Jasbir Singh, Manjeet Kaur wife of Baldev Singh and Vicky son of Baldev Singh. It was stated therein that the

petitioner wanted to send his son Nirmal Singh abroad and, accordingly, contacted Jasbir Singh, who disclosed that he alongwith Manjeet Kaur

and Vicky used to send persons abroad and they would charge a sum of Rs. 7,00,000/- from him for sending Nirmal Singh to England. A sum of

Rs. 3,50,000/- was paid to them but his son was not sent abroad.

2. After completing the investigation, the police presented cancellation report. In order to oppose the same, the petitioner filed protest petition

which was treated as complaint and on the basis of preliminary evidence, Jasbir Singh, Manjeet Kaur and Vicky were summoned as accused.

Jasbir Singh appeared before the trial Court whereas Manjeet Kaur and Vicky were declared proclaimed offenders. During the course of

recording of pre-charge evidence, Jasbir Singh moved an application dated 23.11.2011 requiring the petitioner to produce the passport of Nirmal

Singh. The petitioner filed his reply. Vide order dated 22.12.2011, the trial Court directed the petitioner to produce attested copy of the passport

of his son Nirmal Singh, who was admittedly settled in Italy and at that time had come to India. Aggrieved of the order dated 22.12.2011, the

petitioner filed a revision in the Court of Session. Vide order dated 7.1.2012, Additional Sessions Judge, Kurukshetra accepted the revision and

set aside the order dated 22.12.2011 passed by the trial Court. The order passed by Additional Sessions Judge was challenged by respondent

No. 2-Jasbir Singh by filing a revision which was disposed of by a co-ordinate Bench of this Court on 8.1.2013 by setting aside the order dated

7.1.2012 passed by Additional Sessions Judge and remanding the case to the trial Court for decision afresh in view of the stand taken by counsel

for the parties therein that they had no objection if the trial Magistrate was directed to decide the application for production of copy of passport

afresh.

3. Consequent to remand of the case, Judicial Magistrate 1st Class vide impugned order dated 1.7.2013, after hearing the parties has disposed of

the application filed by respondent No. 2-Jasbir Singh by directing the petitioner to produce attested copy of passport of his son Nirmal Singh,

who also stood cited as witness No. 2 in the list of witnesses submitted by him.

4. Learned counsel for the petitioner has submitted that the petitioner is not in touch with his son Nirmal Singh and, therefore, not in a position to

produce attested copy of his passport.

5. Having heard counsel for the petitioner, this Court finds that though on the one hand the petitioner had spent an amount of Rs. 3,50,000/- for

sending his son abroad yet he now claims that he has no concern with his son and, therefore, not in a position to produce attested copy of his

passport. The petitioner has also cited his son Nirmal Singh as his witness No. 2 and would, thus, produce him before the trial Court in support of

his case. In such a situation, there is no plausible explanation with the petitioner as to why he cannot produce copy of passport of his son Nirmal

Singh. Apparently, the petitioner wants to hide material evidence by not acceding to the directions issued by the trial Court requiring him to

produce copy of his son's passport. In view of the above, there is no merit in the petition, which is, accordingly, dismissed.