

CRM-M-7189-2023(O&amp;M)

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

**CRM-M-7189-2023(O&M)**

**Date of Decision:-18.10.2023**

**Sukhwinder Singh through his SPA & Ors.**

.....Petitioners.

Versus

**State of Punjab & Anr.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Vikram Anand, Advocate for the Petitioner no.1.

Mr. S.S. Narula, Advocate with  
Mr. G.S. Dhillon, Advocate for Petitioner Nos.2 to 4 & 9.

Mr. H.S. Sitta, DAG Punjab.

Mr. Akshay Jain, Advocate for the respondent-SBI.

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**JASJIT SINGH BEDI, J. (ORAL)**

The prayer in the petition under Section 482 Cr.PC is for quashing of FIR No. 147 dated 24.5.2014 under Sections 420, 406, 467, 468, 471, 120-B, 409, 477-A IPC registered at P.S. Kapurthala City, Kapurthala along with all subsequent proceedings arising therefrom on the basis of the compromise dated 01.02.2023 (Annexure P-2).

2. The Counsel for the petitioner contends that a compromise has been effected between the parties in terms of which a sum of Rs.5 Crore has been paid to the respondent/complainant and, therefore, the FIR and all the

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proceedings emanating therefrom were required to be quashed in view of the compromise.

3. The Counsel for the State on the other hand contends that petitioner nos.1 to 4 are serial offenders and have multiple cases registered against them in some of which they have been declared proclaimed offenders and the details are as under:-

**PETITIONER NO.1-SUKHWINDER SINGH S/o Karnail Singh**

| Sr.No. | FIR No., Date & P.S.  | Offence                                 | Status  |
|--------|---|---|---|
| 1.     | 18 dated 27.11.1997 P.S. Division No.4  | 188/148/149 IPC                         | Convicted on 30.06.1998   |
| 2.     | 116 dated 22.04.2014 P.S. City Kapurthala   | 379 IPC                                 | Declared PO on 27.01.2017 later acquitted on 13.10.2017                                     |
| 3.     | 60 dated 26.04.2014 P.S. Meteor   | 406/420 IPC                             | Cancellation Report returned for further investigation by learned Trial Court on 13.11.2021 |
| 4.     | 196 dated 12.11.2014 P.S. Navi Baradari   | 420, 406, 465, 467, 468, 471, 120-B IPC | Petitioner declared PO on 26.04.2016  |
| 5.     | 545 dated 24.12.2014 P.S. Sector 39, Chandigarh, later transferred to Central Sector 17, Chandigarh | 420/467/468/471/120 -B IPC              | N.A.  |
| 6.     | 270 dated 16.11.2015 P.S. City  | 174-A                                   | Declared P.O. on 30.01.2019   |

**PETITIONER NO.2-KARNAIL SINGH S/o Gian Singh**

| Sr.No. | FIR No., Date & P.S.                    | Offence                                 | Status                               |
|--------|---|---|--------------------------------------|
| 1.     | 196 dated 12.11.2014 P.S. Navi Baradari | 420, 406, 465, 467, 468, 471, 120-B IPC | Petitioner declared PO on 17.08.2016 |

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|    |                                      |       |                                |
|----|--------------------------------------|-------|--------------------------------|
| 2. | 270 dated<br>16.11.2015 P.S.<br>City | 174-A | Declared P.O. on<br>30.01.2019 |
|----|--------------------------------------|-------|--------------------------------|

**PETITIONER NO.3-AMARJIT KAUR @ AMANJIT KAUR Wife of  
Sh. Sukhwinder Singh**

| Sr.No. | FIR No., Date & P.S.  | Offence                                    | Status  |
|--------|---|--|---|
| 1.     | 60 dated<br>26.04.2014 P.S.<br>Metor  | 406/420 IPC                                | Cancellation Report returned for further investigation by learned Trial Court on 13.11.2021 |
| 2.     | 196 dated<br>12.11.2014 P.S.<br>Navi Baradari   | 420, 406, 465, 467,<br>468, 471, 120-B IPC | Petitioner declared PO on 26.04.2016  |
| 3.     | 270 dated<br>16.11.2015 P.S.<br>City  | 174-A                                      | Declared P.O. on<br>30.01.2019  |
| 4.     | 545 dated<br>24.12.2014 P.S.<br>Sector 39,<br>Chandigarh, later<br>transferred to<br>Central Sector<br>17, Chandigarh | 420/467/468/471/120<br>-B IPC              | N.A.  |

**PETITIONER NO.4-PARAMJIT SINGH S/o Sh. Harbans Singh**

| Sr.No. | FIR No., Date & P.S.                 | Offence     | Status  |
|--------|--------------------------------------|-------------|---|
| 1.     | 60 dated<br>26.04.2014 P.S.<br>Metor | 406/420 IPC | Cancellation Report returned for further investigation by learned Trial Court on 13.11.2021 |

4. The State Counsel contends that the pendency of the aforementioned cases along with this fact that the petitioners no.1 to 4 are absconders has not been disclosed in the instant petition. In para 11 of the petition it is only stated that the petitioners had not been convicted in any

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other case. As per the anonymous complaint filed in the Court and the evidence available, it is apparent that there were serious allegations against the petitioner no.1 who is alleged to have siphoned off hundred of crores of rupees and has fled to USA. The bail application of the petitioner was dismissed upto the Hon'ble Supreme Court. While the petitioner nos.1 to 4 had been declared proclaimed offenders the other petitioners had surrendered and had been granted the concession of bail. As the petitioners no.1 to 4 were proclaimed offenders not only in the present FIR but in the other cases as well the instant petition had been filed by them through a power of attorney the same was liable to be dismissed.

5. The Counsel for the complainant on the other hand contends that he has no objection if the FIR is quashed as the matter stands compromised.

6. I have heard Counsel for the parties.

7. Before proceeding further it would be apposite to refer to the judgments of Hon'ble Supreme Court and various High Courts on the issue in hand.

The Hon'ble Supreme Court of India in ***Virender Prasad Singh Vs. Rajesh Bhardwaj & Ors. 2010(4) RCR(Criminal) 93*** held as under:-

*“ 18. The High Court should have seen through the incessant efforts on the part of the respondent No. 1/accused to stall the proceedings one way or the other and to avoid arrest. It was way back in 2008 that the anticipatory bail application was rejected by this Court and yet the accused has remained outside without being arrested. Again the investigation against him is complete, the charge sheet has been filed for offence committed by him, and still he has managed to remain out. In fact, the lack of bonafides on the part of the accused should have put the High Court on guard. A **Section 482 application on the plea that the investigation is not proper at the instance of the accused who does not choose to even***

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*appear before the Sessions Judge before whom the matter is pending, should immediately have put the High Court on guard before entertaining the petition which has no bonafides whatsoever. Be that as it may, we desist from saying anything about the quality of investigation, necessity of further investigation or the necessity of the further investigation at the hands of some other agency, particularly, in view of the fact that the charge sheet has already been filed in this matter and at least nothing was shown before us or before the High Court suggesting that there was a necessity of any further investigation, additional investigation or investigation by some other agency. Merely, because there appeared to be no supervision of the DIG level or IG level officer, the High court could not have simply called for the opinion of DGP without recording any finding on any justification. We do not see any justification whatsoever nor was anything shown to us. We will, therefore, not go into that question, but the stance of the High Court in issuing direction not to take any further step in the proceedings arising out of Arrah Rail G.R.P. Case No. 73/2007 till 21.6.2010 is wholly unwarranted.”*

A Co-ordinate Bench of this Court in ***Sarabjit Singh Vs. State of Punjab & Anr. 2021(4) RCR (Criminal) 87*** held as under:-

“ 6. During the course of hearing, it is not disputed by learned counsel that the petitioner is still residing abroad and the petition has been filed through his mother, namely, Sukhwinder Kaur (Special power of attorney).

7. When confronted with the maintainability of the petition, learned counsel has submitted that since the mother of the petitioner was also an accused, therefore, she is competent to represent him as his special power of attorney to pursue his case relating to the same FIR.

8. After hearing learned counsel for the petitioner, this Court finds that the petition is not maintainable in the present form, as the impugned order dated 09.03.2012 declaring the petitioner as proclaimed offender is not on record, and besides, the other impugned order dated 10.02.2011, whereby non-bailable warrants were issued against the petitioner has no significance, after passing of the order dated 09.03.2012.

9. Apart from it, admittedly the petitioner never associated

*himself with the trial proceedings, therefore, evidence adduced by the prosecution qua his co-accused cannot be read in respect of the petitioner. Further, the argument of learned counsel that petitioner's mother Sukhwinder Kaur, being mother Special power of attorney holder is competent to maintain this petition is also without any merit as in criminal proceedings the presence of the accused is necessary. Needless to observe that no proceedings in a criminal trial can take place in the absence of the accused, except where the permission has been granted by the Court to the said accused and ordinarily such prayers like exemption from personal appearance or even recording of evidence in the absence of accused are made by the concerned accused only. There is no provision in Code of Criminal Procedure, 1973 enabling the accused to appoint a power of attorney to represent him in criminal proceedings. The power of attorney executed under the Power of Attorneys Act, 1882 is normally meant for entrusting the power to some other person to manage, buy or sell property; to borrow money; to execute lease deed or to contest the civil litigation etc. In every criminal trial, the intention to commit crime, followed by execution by the accused or negligent act or omission constituting the penal offence are most important aspects which are ascertained by the trial Court to find involvement of the said accused in the crime, therefore, such proceedings, if permitted to be conducted in absence of accused would be violative of cardinal principles of criminal jurisprudence.*

10. *The issue regarding maintainability of the petition by an accused through general power of attorney holder has been considered by this Court in “**Amit Ahuja Vs. Gian Parkash Bhambri**”, 2010 (3) R.C.R. (Criminal) 586, wherein it has been held that such a petition can be maintained only if the accused is suffering from any disability being minor, insane or any other disability recognized as sufficient to permit any other person to file a petition on his behalf. But, in “**Kuldeep Singh Jaswal Vs. Jaspal Singh**”, 2016 (2) AICLR 703, the conflicting view was adopted by this Court, wherein it was held that any petition before the Court should be filed by the accused, but there cannot be or should not be laid down a straight jacket formula in this regard and the issue was left upon at the discretion of the concerned court to be decided upon the facts and circumstances of the case.*

11. Further, the Division Bench of this Court in “**Mangal Dass Gautam Vs. State of Haryana**”, 2020 (2) R.C.R. (Criminal) 382, examined the above issue and held that a petition under Section 482 Cr.P.C is an exception to general rule of criminal law and any such petition filed by accused through power of attorney must contain special reasons. It was further held that the maintainability of such petition would certainly be dependant upon various factors including facts and circumstances of that particular case to be decided by the said Court. The relevant part of the judgment is extracted below:-

“38. In the light of the above observations, it is held that a petition under section 482 of Cr.P.C., 1973 can be filed by a Power of Attorney holder. As regards the maintainability thereof, it would dependent upon the facts and circumstances of each case as also with regard to the validity of the said Power of Attorney and the powers conferred therein. It requires to be mentioned here that there is no statutory bar provided by the legislature in the Cr.P.C. relating to filing or continuing of a criminal matter through a Power of Attorney holder. The Court would generally insist that the petition under section 482 of Cr.P.C., 1973 for quashing of the FIR or a criminal complaint as also the consequential proceedings arising therefrom be filed through the accused person himself but this cannot be and should not be laid down as a hard and fast rule keeping in view the statutory mandate which by nomenclature, description and discretionary nature of powers conferred on the High Court requires it to be kept flexible. This is better left to be considered and decided by the Court dealing with the particular case in the facts and circumstances of each case as it would be impossible to envisage and think of all the circumstances in which the Court may require and like to exercise its extraordinary jurisdiction and powers as conferred under section 482 of Cr.P.C., 1973.”

12. Notably, the maintainability of the petition on behalf of accused through power of attorney holder has also been discussed by the Hon'ble Supreme Court in “**T.C.Mathai Vs. The District & Sessions Judge, Thiruvananthapuram**”, AIR 1999 SC 1385, wherein the Apex Court refused to entertain such petition on the ground of maintainability and observed as under:-

“Section 2 of the Power of Attorney Act cannot override the specific provision of a statute which requires that a particular act should be done by a party in person. When the Code requires the appearance of an accused in a court it is no compliance with it if a power of attorney holder appears for him. It is a different thing that a party can be permitted to appear through counsel. Chapter XVI of the

*Code empowers the Magistrate to issue summons or warrant for the appearance of the accused. Section 205 of the Code empowers the Magistrate to dispense with the personal attendance of accused, and permit him to appear by his pleader if he sees reasons to do so. Section 273 of the Code speaks of the powers of the court to record evidence in the presence of the pleader of the accused, in cases when personal attendance of the accused is dispensed with. But in no case can the appearance of the accused be made through a power of attorney holder. So the contention of the appellant based on the instrument of power of attorney is of no avail in this case”.*

13. *Though the above decision of the Hon'ble Supreme Court was not brought to the notice of this Court in Mangal Dass Gautam's case (supra), however, the above view was further followed by Bombay High Court in “Pravin Niwritti Sawant Vs. Nisha Pravin Sawant and another”, 2007(4) R.C.R. (Criminal) 841, and by Kerala High Court in “Naveed Akhthar Vs. State of Kerala, 2016 SCC Online Kerala 13587”.*

14. *At this juncture, the analysis of the facts of this case reveal that the petitioner voluntarily disengaged himself with the trial proceedings, who left the country without seeking any permission from the trial Court, therefore, this petition filed through the Special power of attorney holder is not maintainable. If such a procedure is introduced, then it would not only encourage the accused persons to seek this kind of permissions to avoid their personal presence before the trial Courts or any other Court, as required by law but would also put extra burden upon the Courts and it may further cause delay in conclusion of the criminal proceedings, thereby defeating the aim and object of the penal laws.*

15. *This Court is cognizant of the scope of Section 482 Cr.P.C and in numerous judicial pronouncements, it has been held by various High Courts as well as the Hon'ble Supreme Court that the inherent powers are to be used sparingly and with circumspection and cannot be exercised in a routine manner, much less for the convenience of the accused. For the sake of arguments, even if it is assumed that in a given case such a permission needs to be given to the accused, in that eventuality also the conduct of the accused applicant would acquire*



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***importance, and this Court is of the opinion that a proclaimed offender who failed to associate with the trial proceedings despite knowledge is not entitled to invoke the inherent powers of this Court to seek quashing of criminal proceedings.***

16. Resultantly, in view of the above discussion, this Court does not find any merit in this petition and the same is dismissed.”

The High Court of Karnataka in ***Samantha Christina Delfina Willis & Ors. Vs. State of Karnataka & Ors.Writ Petitin No.24602-2021 Decided on 01.06.2022*** held as under:-

“ 10. The High Court of Delhi in a Judgment rendered in the case of ***Amrinder Singh v. State Of NCT Of Delhi Crl.M.C.1571 of2021 decided on 04-01-2022*** Addresses The Very Issue As It Was Argued Therein That The Petition Filed Under Article 227 Read With Section 482 Of The Cr.P.C. Was Not Maintainable. The High Court Of Delhi Following The Judgment Of The Apex Court In The Case Of ***T.C.Mathai And Another v. The District & Sessions Judge, Thiruvananthapuram AIR 1999 SC 1385***, has held as follows:

"6. It is vehemently argued by the Ld. APP that the present petition under Article 227 of the Constitution of India read with section 482 of the Code of Criminal Procedure is not maintainable as the same has been filed through S.P.A. holder and the present application and petition are liable to be dismissed.

7. In ***Amit Ahuja v. Gian Parkash Bhambri, 2010 (3) RCR (Criminal) 586***; it has been observed as under:-

"9. The plain reading of the ratio of law, laid down, in the aforesaid cases, clearly goes to reveal, that it is only the accused person, against whom, a criminal case, has been registered or a criminal complaint, has been filed, can file a petition, under Section 482 Cr.P.C., in the High Court, for quashing the complaint, the summoning order, and the subsequent proceedings, and no third person, can fight a proxy war, on his behalf, under the garb of public interest litigant. The aggrieved party, which is affected by an order, is required to seek redress of its grievance, by questioning the legal validity or correctness of the same. It is another thing, if the aggrieved party, is suffering from, some disability i.e. unless such party is a minor, an insane person, or is suffering from any other disability, which, in law, is recognized as sufficient to permit any other person e.g. next friend, to move the Court, on his behalf. On behalf of minor, or insane person, a guardian or a next friend, initiates proceedings, so as to challenge the legality and validity of the order, passed against him, to seek redressal of the grievance, as under law, such a person having disability, cannot be said to be competent, to file a petition, except through next friend or guardian. In the instant case, there is nothing, on the record, that Amit Ahuja, petitioner, is suffering from any disability, recognized by the

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provisions of law. He is an accused, in the aforesaid complaint. It is he, who is aggrieved, against the complaint and the summoning order. It is he, who can challenge the same, on any ground which may be available to him, under the provisions of law. If, in criminal cases, until and unless, a person aggrieved, suffers from same disability, recognized by law, a stranger or some other person, is allowed, to fight the proxy war, then the very purpose of criminal justice system, shall be defeated. In that event, the Courts, would be mushroomed, by public interest litigants. In this view of the matter, the present petition, under Section 482 Cr.P.C., filed by the petitioner, through his attorney, is not maintainable. On this ground alone, the same is liable to be dismissed. "

"8. In **T.C. Mathai and another v. The District & Sessions Judge, Thiruvananthapuram, Kerala**, in para 15, it is observed as under:-

"15. Section 2 of the Power of Attorney Act cannot override the specific provision of a statute which requires that a particular act should be done by a party-in-person. When the Code requires the appearance of an accused in a court it is no compliance with it if a power-of-attorney holder appears for him. It is a different thing that a party can be permitted to appear through counsel. Chapter XVI of the Code empowers the Magistrate to issue summons or warrant for the appearance of the accused. Section 205 of the Code empowers the Magistrate to dispense with "the personal attendance of the accused, and permit him to appear by his pleader " if he sees reasons to do so Section 273 of the Code speaks of the powers of the court to record evidence in the presence of the pleader of the accused, in cases when personal attendance of the accused is dispensed with. But in no case can the appearance of the accused be made through a power-of-attorney holder. So the contention of the appellant based on the instrument of power of attorney is of no avail in this case. "

9. In the instant case as well the petition has been filed through SPA holder which is per se not maintainable. Therefore no permission can be granted to the petitioner to file the present petition bearing No. CRL.M.C. 1571/2021 under Article 227 of the Constitution of India read with section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 258/2010 and the charge-sheet and all the proceedings arising therefrom including the proceedings initiated against the petitioner under section 82/83 of the Code of Criminal Procedure through his SPA holder. Therefore, I find no ground to accept the prayer made in the present application bearing No. Crl. M.A. 10986/2021, the same is, therefore, dismissed, consequently, the petition bearing No. CRL. M.C. 1571/2021 is also dismissed. All pending applications (if any) are disposed of."

(Emphasis supplied)

The High Court of Delhi clearly holds that the petition filed through Special Power of Attorney Holder is per se not maintainable. Therefore, no permission can be granted to the power of attorney holder to present the petition under Article 227 of the Constitution of India or otherwise. The challenge to the proceedings seeking annulment of FIR was also held not maintainable.

11. The High Court of Punjab and Haryana in **Sarabjit Singh v. State Of Punjab And Others CRM-M No.26957 of 2021 decided on 16-07-2021** again

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considering the fact whether the power of attorney holder could maintain the petition holds as follows:

"6. During the course of hearing, it is not disputed by learned counsel that the petitioner is still residing abroad and the petition has been filed through his mother, namely, Sukhwinder Kaur (Special power of attorney).

7. When confronted with the maintainability of the petition, learned counsel has submitted that since the mother of the petitioner was also an accused, therefore, she is competent to represent him as his special power of attorney to pursue his case relating to the same FIR.

13. Though the above decision of the Hon'ble Supreme Court was not brought to the notice of this Court in Mangal Dass Gautam's case (supra), however, the above view was further followed by Bombay High Court in '**Pmvir, Niwritii Sawant v. Nisha Pravin Sawant and. another**', 2007 (4) RCR (Criminal) 841, and by Kerala High Court in "**Naveed Akhthar v. State of Kerala**".

14. At this juncture, the analysis of the facts of this case reveal that the petitioner voluntarily disengaged himself with the trial proceedings, who left the country without seeking any permission from the trial Court, therefore, this petition filed through the Special power of attorney holder is not maintainable. If such a procedure is introduced, then it would not only encourage the accused persons to seek this kind of permissions to avoid their personal presence before the trial Courts or any other Court, as required by law but would also put extra burden upon the Courts and it may further cause delay in conclusion of the criminal proceedings, thereby defeating the aim and object of the penal laws."

(Emphasis supplied)

The High Court of Punjab and Haryana answers the question whether the accused/respondent abroad can file a petition through the power of attorney holder. In the case before the said High Court, the power of attorney holder was the mother. It was argued that the petition was maintainable as the mother of the 1st petitioner was also an accused in the case and she was competent to represent the other accused as she was the power of attorney holder, wherein it is held that if such a practice is permitted, it would become easy for the accused to run away from the country and avoid appearance before the Court thereby resulting in gross delay in the proceedings.

12. The High Court of Kerala in a Judgment rendered in the case of **Naveed Akthar Sait v. State Of Kerala 2016 SCC Online HER 13587** observes that the power of attorney holder moved the case on behalf of the accused There was no petition for permission to act on behalf of the principal. An agent could not appoint an Advocate and therefore, holds that the very petition filed by a power of attorney holder was not maintainable and the Court holds as follows:

"6. Thus, what comes out is that as per the said power of attorney a petition is filed before this court on behalf of the original accused in the case referred above. The decision in **M. Krishnammal v. T. Balasubramania**

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*Pillai AIR 1937 Madras 937*, which was decided by the Madras High Court, that also about 70 years back is the land mark decision in this regard. As per the said decision, the legal position regarding the power that can be delegated even in a case is dealt with. The court held:

"An agent with a power of attorney to appear and conduct judicial proceedings, but who has not been so authorised by the High Court, has no right of audience on behalf of the principal, either in the appellate or original side of the High Court - There is no warrant whatever for putting a power of attorney given to a recognized agent to conduct proceedings in court in the same category as a vakalat given to a legal practitioner, though latter may be described as a power of attorney is confined only to pleaders, i.e, those who have a right o plead in courts. "

7. The dictum laid down therein is that without the explicit permission of the court, a power of attorney cannot plead or can have audience in the court. This position is followed in **T.C Mathai v. District & Sessions Judge, Thiruvananthapuram [(1999) 3 SCC 614]**, wherein the Apex Court approving the dictum laid in the above referred case, held that:

"The aforesaid observations, though stated sixty years ago, would represent the correct legal position even now. Be that as it may, an agent cannot become a "pleader" for the party in criminal proceedings, unless the party secures permission from the court to appoint him to act in such proceedings. The respondent-couple have not even moved for such a permission and hence no occasion has arisen so far to consider that aspect."

8. In the case in hand, it is the admitted case of the petitioner that he is the power of attorney holder and moved on behalf of the accused. There is no petition for permission to act on behalf of the principal. An agent cannot appoint an Advocate who is empowered to appear before the court without the permission of the court. When the power of attorney holder has not permitted to do so, he cannot cure the defect by appointing an advocate by him. Thus, what comes out is that, in this case, the petitioner has not obtained permission from the court to proceed with the proceeding."

All the decisions afore-quoted follow the judgment of the Apex Court in the case of **T.C.MATHAI (supra)**, wherein the Apex Court holds as follows:

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"15. Section 2 of the Power of Attorney Act cannot override the specific provision of a statute which requires that a particular act should be done by a party-in-person. When the Code requires the appearance of an accused in a court it is no compliance with it if a power-of-attorney holder

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*appears for him. It is a different thing that a party can be permitted to appear through counsel. Chapter XVI of the Code empowers the Magistrate to issue summons or warrant for the appearance of the accused. Section 205 of the Code empowers the Magistrate to dispense with "the personal attendance of the accused, and permit him to appear by his pleader" if he sees reasons to do so. Section 273 of the Code speaks of the powers of the court to record evidence in the presence of the pleader of the accused, in cases when personal attendance of the accused is dispensed with. But in no case can the appearance of the accused be made through a power-of-attorney holder. So the contention of the appellant based on the instrument of power of attorney is of no avail in this case."*

*(Emphasis supplied)*

**13. On a coalesce of the judgments so rendered by the Constitutional Courts, what can be unmistakably gathered is that the power of attorney holder of an accused cannot maintain a petition be it under Article 226 or 227 of the Constitution of India read with Section 482 of the Cr.P.C. or Criminal Petition under Section 482 Cr.P.C. Therefore, I hold that the present petition filed by the power of attorney holder of the accused, without seeking any permission at the hands of this Court, and without even narrating in the petition that he is personally aware of the facts of the case, the writ petition filed under Articles 226 and 227 of the Constitution of India read with Section 482 of the Cr.P.C. is per se not maintainable, as the accused cannot be represented by a power of attorney holder and thus, maintain the subject petition."**

8. Coming back to the facts of the present case, it is apparent that multiple cases are pending against the petitioner nos.1 to 4. They are proclaimed offenders in some of those cases including the present case and serious allegations have been particularly levelled against petitioner no.1 of siphoning off crores of rupees and fleeing to USA. A proclaimed offender cannot seek quashing of the FIR on the basis of a compromise, more so, when he is absconding in multiple cases pending against him. He cannot short circuit the system by filing petitions through Powers of Attorney unless he was a minor, insane, suffering from disability or for certain compelling circumstances is unable to appear in person. In the present

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petition no such situation exists enabling petitioner nos.1 to 4 to file the instant petition through Powers of Attorney. Therefore, in cases of the present kind, the ends of justice would only be served by the accused submitting to the jurisdiction of the Courts after which they would be at liberty to avail their remedies in accordance with law.

9. In view of the above, I find no reason to quash the FIR on the basis of a compromise at the instance of petitioner nos.1 to 4 and, therefore, the present petition qua them stands dismissed.

10. So far as petitioners nos.5 to 14 are concerned, the present petition stands disposed of with grant of liberty to them to file a fresh quashing petition separately on the basis of a compromise, if so advised.

( JASJIT SINGH BEDI )  
JUDGE

October 18, 2023

Vinay

|                                  |               |
|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |