

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-22034 of 2013 (O&M)

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Date of decision:11.2.2015

Anil Kapoor

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. V.K. Sandhir, Advocate for the petitioner.

Mr. S.S. Chandumajra, Deputy Advocate General, Punjab for
the respondent-State.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 2.8.2011 (Annexure-P.1) passed by learned Chief Judicial Magistrate, Amritsar, whereby the petitioner has been declared proclaimed absconder in FIR No.76 dated 20.7.2008 registered for the offences under Sections 419, 420, 465, 466, 467, 468, 471, 474 and 120-B IPC at Police Station `D' Division Amritsar, District Amritsar in complete violation of the provisions of Section 82 Cr.P.C. and the law laid down by this Court.

It is mainly stated in the present petition that the order passed against the petitioner is patently illegal. No procedure has been followed to

declare the petitioner as proclaimed person. Besides this, once the petitioner was discharged in the FIR, there was never any act of evading the proceedings of the Court by him. The petitioner was falsely implicated in the above mentioned FIR.

Notice of motion has been issued in this case.

Mr. S.S. Chanbdumajra, learned Deputy Advocate General, Punjab has appeared on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner and learned Deputy Advocate General, Punjab appearing for the respondent-State and have gone through the record.

Learned counsel for the petitioner brought the order dated 17.9.2011 to my notice, wherein as per the order of the High Court, the FIR as well as subsequent proceedings arising therefrom have been quashed. As per Annexure-P.4, an application was given by the SHO, Police Station Civil Lines, Amritsar dated 22.2.2011 for issuance of non-bailable warrants. This order has been passed on 2.8.2011 for declaring the present petitioner along with other persons as proclaimed absconders by stating that they have been served through proclamation, but failed to appear before the Court within the stipulated period. The interim orders have been mentioned in the petition itself. As per order dated 2.4.2011, the warrants of arrest against accused No.1 to 9 have not been received back and fresh warrants have been entrusted through Naib Court on that day for getting the service through the Police Station and returnable to that Court for 21.5.2011. As per the order

dated 21.5.2011, warrants of arrest of accused received back unexecuted with the report that they are not traceable. This order itself shows that the persons were not traceable. There is nothing to show at that time to the Court that they were evading service but the proclamation had been issued.

A perusal of the record shows that the present petitioner was never served. There was no report of anybody before issuance of proclamation that he was avoiding the service. Rather, the report was that he was not traceable. Further, more the present FIR has already been quashed by this Court today in a separate proceeding.

Therefore, keeping in view the facts and circumstances of the present case, I accept this petition and the impugned order dated 2.8.2011 passed by learned Chief Judicial Magistrate, Amritsar declaring petitioner Anil Kapoor as proclaimed absconder is set aside.

February 11, 2015.

(Inderjit Singh)
Judge

hsp