

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc.No.M-29599 of 2015 (O&M)
Date of decision: 17th December, 2015

Shambhu Kumar

...Petitioner

Versus

Sumit Sayal

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Jasdeep Singh Gill, Advocate,
for the petitioner.

Mr. Om Parkash Sharma, Advocate,
for the respondent.

INDERJIT SINGH, J.

Petitioner has filed the instant petition under Section 482 Cr.P.C., for setting aside the order dated 29.05.2015, passed by the learned Judicial Magistrate Ist Class, Ludhiana in complaint Case No.687 of 2014 dated 01.02.2014 titled as 'Sumit Sayal versus Shambhu Kumar' vide which the petitioner has been declared as proclaimed offender and further for issuance of any other appropriate order or direction which this Court may deem fit.

Notice of motion was issued. Learned counsel for respondent appeared and filed reply.

At the time of arguments, learned counsel for the petitioner contended that in the year 2009, the petitioner had shifted to Bihar and he was never served personally nor there is anything on the record to show that he was knowing about the criminal

proceedings pending against him, therefore, the proclamation order passed by the learned trial Court is without any due service.

On the other hand, learned counsel for respondent contested the instant petition.

I have heard learned counsel for the parties and have gone through the record.

Perusal of the impugned order dated 29.05.2015, passed by the learned Judicial Magistrate 1st Class, Ludhiana, shows that the publication of the petitioner-accused was published in the newspaper 'Daily Ranjit' but at that time, the petitioner-accused was stated to be in Bihar. Learned counsel for the respondent contested this contention by relying upon the document (Annexure R-1) that the respondent had given the address of accused of Ludhiana and also produced the copy of his identity card. Perusal of the said document (Annexure R-1) shows that this document is of May, 2009 but the case of the complainant is that the accused had shifted to Bihar in 2009. Again the learned counsel for the respondent relied upon document dated 06.07.2015 (Annexure R-2) but the said document shows that the letter was written by Deputy Commissioner of Police, Ludhiana to the District Arms Magistrate, Patna (Bihar) by stating that their office has no objection to renew the arm licence. As such, from these documents (Annexures R-1 and R-2), in no way, it can be held that during the said period, the petitioner was residing at Ludhiana.

Keeping in view the facts and circumstances of the present case and the facts that the petitioner was not knowing regarding the criminal proceedings pending against him nor he was knowing that any warrant etc. was issued against him and in the publication, the address given was of Ludhiana, whereas the petitioner was residing in Bihar, it is clear that publication has not been served upon the petitioner-accused, as per law. Therefore, the impugned order dated 29.05.2015, is set aside.

Accordingly, the instant petition stands accepted and the order dated 02.09.2015, passed by this Court, granting interim bail to the petitioner is made absolute. However, the petitioner is directed to appear and face the proceedings before the learned trial Court/Successor Court within one month and on doing so, the Court will release him on bail to its satisfaction.

17th December, 2015
mamta

(INDERJIT SINGH)
JUDGE