

**285 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.32377 of 2016

Date of decision: October 17, 2016

Vinay Dadhwal

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Karan Choudhary, Advocate
for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

JASPAL SINGH, J.(ORAL)

By virtue of the instant petition preferred under Section 482 of Code of Criminal Procedure, petitioner has sought quashing of impugned order dated 1st October, 2014 (Annexure P-7) passed by the Court of Ld. SDJM, (D), Mukerian in criminal trial titled as *State vs. Yudhvir Singh and others* arising out of FIR No.20 dated 16.06.2011, under Section 365 of IPC registered at Police Station City Hajipur now Talwara vide which petitioner has been declared proclaimed person.

At the very outset of the arguments, it has been submitted by learned State counsel on instructions from ASI Davinder Singh, Police Station Hazipur, District Hoshiarpur that in compliance of the order dated 7th October, 2016, petitioner has already surrendered/appeared before the trial Court and has been released on bail.

Otherwise also, impugned order dated 1st October, 2014 is not sustainable in the eyes of law as it suffer from various illegalities and irregularities at the time of presentation of report under Section 173(2)

Cr.P.C., the name of the petitioner was mentioned in column No.2 as he was found innocent during the investigation of the case. He left for United Arab Emirates on 22nd May, 2012 and he was ordered to be summoned on the basis of an application under Section 319 Cr.P.C by the trial Court vide order dated 7th December, 2012 when he was not in India. No effort was ever made by the trial Court to serve him with the summons or through any other process in the United Arab Emirates (Saudi Arabia). However, he was declared proclaimed person vide impugned order dated 1st October, 2014. He only came to know about the above referred order on his return from Saudi Arabia i.e. after 19th April, 2016. Immediately thereafter, he preferred the instant petition. Since the petitioner cannot be said to have been legally served or proceeded under Section 82 of Cr.P.C. in accordance with law, impugned order dated 1st October, 2014 is not sustainable in the eyes of law and is liable to be *set aside*. Accordingly, impugned order is *set aside* by way of the acceptance of the instant petition.

October 17, 2016
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No