

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

CRM-M-19762-2014(O&M)

Date of decision: 18.09.2017

Harjas Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vishal Sharma, Advocate
for the petitioner.

Mr. Randeep Singh Khaira, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of order dated 31.01.2012 declaring the petitioner as proclaimed offender and the order dated 15.04.2014 passed by the Revisional Court, dismissing the revision petition filed by the petitioner.

It is submitted on behalf of the petitioner that the petitioner is facing trial in case FIR No.13, dated 19.01.2004, under Sections 341, 307, 148, 149, 506 IPC and Sections 25, 27, 54, 59 Arms Act (summoning order only under Section 148, 149, 336 IPC), registered at Police Station Sarbha Nagar. It is further submitted that after the thorough investigation by the police, a cancellation report was submitted in Court on 20.01.2005. However, the complainant filed a protest petition before the trial Court and, thereafter, the trial Court summoned the petitioner alongwith other accused under Sections 148, 149, 336 IPC, vide order dated 17.12.2008.

Learned counsel for the petitioner submits that in pursuance to the summoning order, the petitioner was never served and later on when the proclamation under Sections 82 or 83 Cr.P.C. was issued, without

following the proper procedure i.e. serving the summons on the address of the petitioner, the petitioner was declared a proclaimed offender, vide impugned order dated 31.01.2012 (Annexure P-1).

The petitioner being aggrieved against that order filed a revision petition before the Revisional Court, however, the revision was also dismissed on 15.04.2014 and thereafter, the petitioner has filed the present petition challenging both the orders.

Vide order dated 27.11.2015, while issuing notice of motion, this Court stayed the operation of the order declaring the petitioner as a proclaimed offender subject to appearance of the petitioner before the Illqua Magistrate within a period of one month and furnishing bail/surety bonds to its satisfaction. He further submits that in pursuance to order dated 27.11.2015, the petitioner appeared before the trial Court on 21.12.2015 and vide order dated 22.12.2015, he was granted bail.

Learned counsel for the petitioner further submits that since then, the petitioner is regularly appearing before the trial Court and facing the trial. He further submits that the complainant /respondent No.2 failed to appear before the trial Court; the protest petition filed by the complainant has already been dismissed and now, the proceedings before the trial Court is pending with regard to awaiting further orders in the present petition.

On the other hand, learned State counsel does not dispute this fact, however, it is submitted that the petitioner has intentionally avoided the service of summons.

After hearing learned counsel for the parties, on perusal of the interim orders immediately before declaring him to be proclaimed offender, I find that the petitioner was not served, as per provision of Sections 82 / 83

Cr.P.C. Hence, the impugned order is set aside.

Since, the petitioner is regularly appearing before the trial Court and has not misused the concession of bail, the order dated 27.11.2015, is made absolute.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

18.09.2017
Hemlata

Whether speaking/reasoned	Yes / No
Whether reportable	Yes / No