

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

CRM No.M-29598 of 2017

Date of decision: 13.11.2017

Ashok Kumar

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Surinder Thakur, Advocate for the petitioner.

Ms. Rajni Gupta, Sr. DAG, Punjab.

Ms. Amandip Kaur, Advocate for respondent No.2.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing the order dated 03.11.2015 (Annexure P5) passed by the trial Court vide which the petitioner was declared as proclaimed offender for non-appearance in criminal complaint filed by respondent No.2 i.e. Criminal Complaint No.167/06.06.2013 registered under Section 302 read with Section 34 IPC.

While issuing notice of motion on 16.08.2017, the petitioner was directed to appear before the trial Court on 23.08.2017 and on payment of costs of Rs.15,000/-, he was directed to be released on interim bail.

Counsel for the petitioner has submitted that vide order dated 23.08.2017, the petitioner has complied with the order dated 16.08.2017 and the trial Court has granted interim bail to the petitioner on payment of costs. It is further submitted that the petitioner is summoned in the aforesaid criminal complaint vide order dated

11.08.2014. Counsel for the petitioner has also submitted that at the time when the summoning order was passed, the petitioner was not in India and he was working in UAE and, therefore, he was never served with the summoning order passed by the trial Court. It is further submitted that when the proceedings under Section 82 Cr.P.C. were initiated against the petitioner, he was not residing in India and, therefore, neither the service on the respondent nor the proclamation was issued at his ordinary place of residence and he was declared as proclaimed offender. The petitioner has now returned back to India on coming to know about pendency of the case and is ready to face the trial and has already appeared before the trial Court in terms of order dated 16.08.2017 passed by this Court.

Counsel for the State has not disputed the factual position.

Counsel for respondent No.2 has stated that the petitioner has delayed the proceedings of the trial Court.

Counsel for the petitioner, in reply, has submitted that in fact the FIR which was initially registered was thoroughly investigated and the Superintendent of Police, Hoshiarpur vide its report dated 26.09.2017 declared that the petitioner was not involved in the FIR No.52 dated 01.04.2013 registered under Sections 304-A, 279, 337, 427 IPC at Police Station Sadar Hoshiarpur and the complaint was filed only, thereafter, when the petitioner has left for abroad in search of a job.

For the reasons stated hereinabove and the fact that the petitioner has already appeared before the trial Court and has complied with the order dated 16.08.2017 passed by this Court, the petition is allowed and the order dated 03.11.2015 declaring the petitioner as

proclaimed offender is set-aside and the trial Court is directed to dispose of the complaint, in accordance with law.

(ARVIND SINGH SANGWAN)
JUDGE

13.11.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No