

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

CRM-M-34431 of 2016

Date of Decision: February 14, 2017

Tarsem Singh and another

Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Tarun Vir S. Lehal, Advocate
for the petitioner.

Mr. Jasjeet Singh Dhaliwal, DAG, Punjab.

FATEH DEEP SINGH, J.

The petitioners Tarsem Singh and Shamsher Singh both happened to be the brothers have invoked the jurisdiction of this Court under Section 482 Cr.P.C seeking quashment of orders dated 22.12.2012 Annexure P/2 declaring them as proclaimed offenders.

The brief undisputed facts are that an FIR No.41 dated 06.05.2005 under Sections 324,34 IPC was registered at Police Station Dera Baba Nanak, Gurdaspur against three persons namely Tarsem Singh, Shamsher Singh, present petitioners and Harbans Singh. It is subsequent upon presentation of challan both these petitioners appeared before the learned SDJM which is well reflected from the orders dated 16.11.2005 onwards and it is subsequent thereto they had been appearing before the trial Court on numerous occasions which is well elicited from the records of the trial Court. It was thereafter, on 03.07.2012 the accused absented

necessitating issuance of non-bailable warrants of arrest against them leading to issuance of proclamation and recourse to provisions under Sections 82 and 83 Cr.P.C and it was by virtue of impugned orders dated 22.12.2012 all the accused were declared as proclaimed offenders leading to recording of statement under Section 299 Cr.P.C. It needs to be referred here that on 4.2.2014 accused Harbans Singh had surrendered and appeared before the trial Court and was put to trial and, thereafter, vide judgment dated 15.9.2014 accused Harbans Singh stood acquitted by the Court of SDJM, Batala. It is at this stage at the time of this acquittal apparently the petitioners have come up before this Court seeking quashment of impugned orders declaring them proclaimed offenders.

Appreciating the submissions of the two sides it is well established on the records of the Court below that the petitioners secured bail and after putting in appearance charges were framed against them and they had faced the trial for a long period and thereafter all the three absented and were declared as proclaimed offenders and subsequently their co-accused Harbans Singh surrendered and put in appearance and faced trial is in itself reflective of the fact that the petitioners were very well aware of the pendency of the proceedings before the learned trial Court. Though, learned counsel for the petitioners has sought to take advantage of the fact that the petitioners are allowed to appear before the trial Court vide orders dated 27.9.2016 of this Court, however, to the mind of this Court such an order does not renders the impugned order declaring the petitioners as proclaimed offenders otiose. The provisions of law are handmade for dispensation of justice and, therefore, the very sanctity of the provisions have to be kept

intact. The very conduct of the petitioners is in itself suggestive that for almost more than 04 years they have eluded the law and the insolence shown by the learned trial Court in not furthering the cause of justice by attaching their movable and immovable property does not in any manner comes to the aid of the petitioners who do not deserves sympathy and leniency of this Court and have unnecessarily put the trial to hold and had made mockery of the system of administration of justice. This Court has considered at length the situation where such a recourse under Section 482 Cr.P.C is permissible to persons who deserves it in CRM-M-12547 of 2016 **Avtar Singh vs. Harminder Singh Kang** and the case of the petitioners does not calls for any sympathy and indulgence by this Court. Mere fact that the petitioners are trying to take benefit of acquittal of their co-accused Harbans Singh has been well answered in the ratios **Megh Singh vs. State of Punjab 2003(4) RCR Criminal 319** and **Gorle S. Naidu vs. State of A.P. AIR 2004 SC 1169.**

Thus, in the totality of what has come to the light and in view of the conduct of the petitioners they are certainly not entitled to any relief. The petition being devoid of any merits stand dismissed.

(FATEH DEEP SINGH)
JUDGE

February 14, 2017
aarti

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