

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

CRM-M-34340-2017(O&M)

Date of decision: 10.10.2017

Naresh Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

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

JAISHREE THAKUR, J. (ORAL)

CM-32613-2017

The application is allowed.

Documents Annexures P-5(Colly.), P-6 (Colly.),P-7 (Colly.),
are taken on the record.

CRM-M-34340-2017

This is a petition that has been filed under Section 482 Cr.P.C. seeking quashing of the order dated 01.09.2015 passed by Judicial Magistrate Ist Class, Hoshiarpur (Annexure P-3) whereby the petitioner has been declared as proclaimed person on account of non-appearance before the trial Court.

In brief, the facts are that complaint No. 77 dated 04.09.2012 came to be filed against the respondents under Sections 452, 307, 354, 323, 148, 149 IPC titled Manjit Kaur vs. Naresh Kumar and others. In the said complaint, the petitioner herein was summoned, however, could not appear as he was resident of Italy at that point of time. Order dated 01.09.2013, came to be passed declaring him as a proclaimed person. The complaint case was also decided by the Judicial Magistrate Ist Class, Hoshiarpur on

06.03.2017 holding that there were many discrepancies in the testimony of the complainant, leading to discharging of the accused.

Learned counsel for the petitioner argues that there was no effective service upon the petitioner since he was resident of Italy at that point of time. It is also argued that the complainant was well aware of the fact that he was not residing in India since she was a close relative.

I have heard learned counsel for the petitioner and have perused the passport of the petitioner.

A perusal of the passport of the petitioner would show that petitioner Naresh Kumar had left India on 06.05.2015 and only returned in March, 2017. It would show that there is non-compliance of Section 82 Cr.P.C. and, therefore, the petitioner herein is directed to appear before the Judicial Magistrate Ist Class, Hoshiarpur within a period of one week. The arrest of the petitioner is stayed for a period of ten days in order to enable him to join the proceedings before the trial Court. In case, he does appear and move appropriate application for setting aside the order declaring him as a proclaimed person as well as for grant of bail, he shall be admitted to bail by the trial Court to its satisfaction.

However, it is made clear that in case the petitioner does not present himself before the Court below within the specified time, any protection granted by this Court shall stand automatically vacated.

The petition stands disposed of accordingly.

10.10.2017

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.