

CrI. Misc. No. M-11552 of 2018
Date of Decision: March 19, 2018

Jaswinder Singh

.....Petitioner

versus

State of Punjab

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. A.K. Khunger, Advocate
for the petitioner

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Sudhir Mittal, J. (Oral)

The petitioner seeks quashing of notice dated 29.01.2018 (Annexure P-8) and order dated 07.03.2018 (Annexure P-11). The notice Annexure P-8 has been issued under Section 70 Cr.P.C. and the order Annexure P-11 is an order by which bailable warrants have been issued against the petitioner.

Learned counsel for the petitioner has contended that a couple which was got married by the petitioner (being a Granthi) has approached the learned Sessions Judge for protection of life and liberty. In the said proceedings a notice dated 29.01.2018 (Annexure P-8) under Section 70 Cr.P.C. has been issued, pursuant to which the petitioner put in appearance on 02.02.2018. Thereafter, he again appeared on 17.02.2018 but could not appear on 07.03.2018 because of which order of even date Annexure P-11 was passed for production of the petitioner through bailable warrants. The contention is that Section 70 Cr.P.C. provides for form of warrant of arrest and duration and since the petitioner has only been summoned as a witness, notice under the said provision of law was not warranted.

It is also submitted that the petitioner did not appear on 07.03.2018 as he was apprehending arrest.

The contention regarding Section 70 Cr.P.C. is well founded. The zimni order dated 29.01.2018 shows that the petitioner has been summoned to prove the marriage certificate and, therefore, the summons under Section 61 Cr.P.C. should have been issued. It appears that the summons under Section 70 Cr.P.C. was issued erroneously and this is evident from the fact that the petitioner was not arrested although he had put in appearance on two subsequent dates. However, it is clear that the notice (Annexure P-8) be read as summons under Section 61 Cr.P.C. Regarding the apprehension of the petitioner that he might be arrested if he appears on the next date of hearing, the same is totally misplaced. The petitioner is not an accused in the case in which he has been summoned nor there is any FIR pending against him and, therefore, he can not be arrested. Suffice it to say that the petitioner should comply with theailable warrants and appear on the next date of hearing as directed by the learned trial Court.

With the above observations, the petition is disposed of.

March 19, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No