

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 17790 of 2018 (O&M)

Date of decision : 30.4.2018

...

Mohinder Kaur

.....Petitioner

vs.

State of Punjab and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Pankaj Bali, Advocate
for the petitioner.

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H. S. Madaan, J.

The present petition has been filed by petitioner Mohinder Kaur, presently residing in Canada, under Section 482 Cr.P.C. for quashing of order dated 30.4.2015 passed by SDJM, Khanna, vide which she has been declared a proclaimed offender. According to her she is aged woman of 81 years, not keeping good health. In the year 2014 she had left for Canada, to be with her son and she has wrongly been declared as Proclaimed Offender.

At the very outset, it is to be seen as to whether such type of petition is maintainable. A Coordinate Bench of the Court in **Mehnga**

Singh vs. State of Punjab 2002 (2) RCR (Criminal) 501 has observed that when an accused has been declared as a proclaimed offender, a petition under Section 482 Cr.P.C. challenging that order is not maintainable, since the accused should first move the court which declared him proclaimed offender and even an objection against validity of proclamation is required to be raised in the first instance before the court which issued the proclamation and power under Section 482 Cr.P.C. is not to be exercised in favour of a person who is absconding or avoiding service.

The petitioner is residing in Canada. There could not be any immediate apprehension of her being arrested, rather she has filed the petition while being in Canada, from a safe distance, confident enough she would not be arrested even if the petition is dismissed.

Furthermore, as has been observed by the Apex Court in citation **State of Madhya Pradesh vs. Pradeep Sharma 2014 (2) RCR (Criminal) 269**, an absconder/proclaimed offender, in terms of Section 82 Cr.P.C. is not entitled to the discretionary relief.

The petition being not maintainable, is hereby dismissed.

30.4.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes/ No

Whether reportable Yes/ No