

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22742-2016

Date of Decision: 08.02.2018

Ram Singh

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. S. S. Sahu, Advocate
for the petitioner.

Mr. Surender Singh, A.A.G., Haryana.

Amol Rattan Singh, J.

By this petition, which seeks to invoke the jurisdiction of this Court under Section 482 Cr.P.C., the petitioner, Ram Singh, has prayed for quashing of the order dated 30.04.2014 (Annexure P-2), by which the learned Sub Divisional Judicial Magistrate, Ratia, declared him to be a 'proclaimed person' (under Section 82 Cr.P.C.) and directed the SHO concerned to file the list of properties of the accused (petitioner).

The petitioner further seeks quashing of the order dated 11.07.2014 (Annexure P-6) by which the same Court has dismissed the application seeking that the proclamation warrant issued against him be set aside.

Yet further, he seeks setting aside of the order dated 10.10.2014 (Annexure P-3), by which an intimation was directed to be sent to the SHO, Police Station Ratia, for registration of an FIR under the provisions of Section 174-A of the IPC and the case was ordered to be listed for 18.12.2014 for

recording evidence in terms of Section 299 Cr.P.C. A further direction was also issued vide the same order that the record of rights (*jamabandi*) produced by the SHO be sent to the Patwari concerned, for attachment of the property of the petitioner-accused.

It needs to be stated here that the order Annexure P-6, dismissing the application seeking the setting aside of the proclamation warrant, has been passed on the ground that the petitioner already having been declared to be a proclaimed person (vide the order dated 30.04.2014), that Court had no authority to review its own order.

2. The proceedings before the Courts below arise actually from FIR no.607 registered at Police Station Ratia on 17.11.2013, on the complaint of one Surja Ram, to the effect that on 13.11.2013, he and his son, Deshraj, were going to cultivate their fields on a tractor when the petitioner and his wife Samitri Devi stopped them and stated that they would not allow them to cultivate the land; they then started quarreling with them and hurling abuses at them, also allegedly threatening to kill them if they did not leave the place after selling their land. Allegedly, the petitioners' wife had also threatened that if the complainant and his son did not go away, they would also be implicated in false cases.

3. As per the petition, the petitioner was found to be innocent as per the investigation of the police, as he was not actually present at the spot at the time of occurrence.

However, before the petitioner had been found innocent by the police itself, the SHO/investigating officer had got issued an arrest warrant, pursuant to which the impugned orders dated 30.04.2014 and 10.10.2014 had been passed, declaring the petitioner to be a proclaimed person and directing

of registration of an FIR under the provision of Section 174-A IPC against him, respectively.

4. Upon notice having been issued in this petition, a reply has been filed on behalf of the respondent-State by the Assistant Superintendent of Police (Headquarter), Fatehabad, not denying the factual position as depicted hereinabove, and further stating that in fact, the SHO, Police Station, Ratia, had filed the application for setting aside the arrest warrant, publication notice and production of list of properties, on the ground that the petitioner had in fact been thereafter found to be innocent by the police.

5. On query, learned State counsel (on instructions) also does not deny that the wife of the petitioner, i.e. Samitri Devi, was also acquitted; however, he submits the petitioner being a proclaimed offender has not been tried.

6. That being so, and the application filed on behalf of the State itself for revoking the orders declaring the petitioner to be a proclaimed person, having been dismissed only on the ground that the Court that had issued them could not review its own orders (obviously in terms of Section 362 of the Cr.P.C.), I see no reason to not allow this petition.

Consequently, the petition is allowed and the orders Annexures P-2 and P-3, declaring the petitioner to be a proclaimed person and directing attachment of his property, and all consequential orders, are hereby set aside.

February 08, 2018

dharamvir/dinesh

(AMOL RATTAN SINGH)
JUDGE

1. Whether speaking/reasoned?	Yes/No
2. Whether reportable?	Yes/No