

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

**CRM-M-23398-2018
Decided on: 19.09.2018**

Rajesh Kapila

.... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present: Mr. Gaurav Gogna, Advocate,
for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

H.S. MADAAN, J (ORAL)

Ms. Preeti Aggarwal, Advocate has appeared on behalf of respondent No.2 by filing vakalatanama, which be taken on record.

2. This is a petition under Section 482 Cr.P.C. praying for quashing of impugned order dated 14.09.2016 passed in criminal complaint no. COMI/50/14(13/2A/14) dated 29.05.2014.

3. As per law laid down by a Coordinate Bench of this Court in '*Mehnga Singh vs. State of Punjab 2002(2) R.C.R. (Criminal) 501*', when an accused has been declared as a proclaimed offender, a petition against the order under Section 482 Cr.P.C. is not maintainable and accused should first move the Court which declared him proclaimed offender and further 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 Criminal Procedure Code is not to be exercised in favour of the a person, who is absconding or avoiding service.

4. Learned counsel for the petitioner has referred the authority '*Kashmir Ram vs. State of Punjab 2008(25) R.C.R. Criminal 742*' by a Coordinate Bench to the fact that when an accused had been declared as a proclaimed offender, complainant did not want to continue the proceedings against any accused. Offence against the petitioner is compoundable, then order declining permission to compromise was set aside. This authority is not applicable since the offences here are non-compoundable unlike the facts of the authority, where the offence was compoundable.

5. He has further referred to authority '*Satish Sarin and others vs. Union Territory, Chandigarh and another*' 2014(7) R.C.R. (Criminal) 2657' in support of that contention. The observations made were in light of the facts and circumstances of the said case and cannot be taken as binding ratio irrespective of different facts and circumstances of other cases.

6. Under the circumstances, the petition stands dismissed.

7. The petitioner is relegated to the remedy of approaching trial Court by surrendering there and moving appropriate application, which may be disposed of expeditiously by the trial Court taking a lenient view since the matter is said to have been settled between the parties.

(H.S. MADAN)
JUDGE

19.09.2018
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No