

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 23589 of 2015 (O&M)

Date of decision : 27.4.2018

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Karambir Singh Draftsman

.....Petitioner

vs.

State of Punjab

.....Respondent

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

Present: Mr. Sarbjit Singh, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Senior Deputy Advocate General,
Punjab.

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H. S. Madaan, J.

The present petition under Section 482 Cr.P.C. for quashing of FIR No. 28 dated 17.10.2008, for offences under Sections 420, 467, 468, 471, 120-B IPC and under Section 13(1) (d) read with section 13(2) of the Prevention of Corruption Act registered at Police Station Vigilance Bureau, Amritsar, District Amritsar, as well as PO order dated 10.4.2010 passed by Chief Judicial Magistrate, Amritsar, since all the other co-accused of the petitioners have been acquitted by the Special Court, Amritsar, vide judgment dated 15.10.2014, has

been filed by petitioner Karambir Singh Draftsman.

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.

Furthermore, the present petition has been filed by the petitioner residing in Canada through Attorney. The petition filed in such a manner is not maintainable. In authority **Amit Ahuja vs. Gian Parkash Bhambri 2010 (3) RCR (Criminal) 586**, by a Coordinate Bench of this Court, where the petitioner was residing in Dubai and he had filed a petition under Section 482 Cr.P.C. through his Attorney for quashing of criminal proceedings, it was observed that the petition was not maintainable and petition through Power of Attorney could be maintained if the petitioner was suffering from any disability i.e. he was minor, insane or was suffering from any other disability, which, in law is recognized as sufficient to permit any other person i.e. next friend, to move the Court on his behalf. In that case, the law laid down by the Apex Court in **Simranjit Singh Mann vs. Union of India and another 2 AIR 1993 Supreme Court 280** and another

authority in **Janta Dal vs. H.S. Chaudhary and others JT 1991 (3) SC 497**, were relied upon. On that ground also, the petition is bound to fail.

Furthermore, the petitioner having been declared as a proclaimed offender, on his arrest, the prosecution has got a right to file a supplementary challan against him and to make him stand trial. A very peculiar situation would arise, if out of several accused some opt to keep away avoiding arrest, getting themselves declared as proclaimed offenders and then keeping a watch on the proceedings during trial against the other accused may pressurize or threaten the witnesses or win them over by giving inducement and if for one reason or the other, the other such accused are acquitted, all of sudden appearing on the scene requesting that order declaring them as proclaimed offender be set aside and they be also given a clean chit, solely for the reason that their co-accused who had faced trial, had been granted acquittal.

Though learned counsel for the petitioner has referred to authority **Sudo Mandal @ Diwarak Mandal vs. State of Punjab 2011 (2) RCR (Criminal) 453**, in support of his contention that it can be so done, but I find that the facts and circumstances of that case were quite distinct and the context in which such observations were made was also different. Therefore, this citation does not help the petitioner in any manner.

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 is bound to fail and is dismissed accordingly.

27.4.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No