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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2900-2016 (O&M)

Date of decision: February 06, 2018

Attinderpal Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Preetinder Singh Ahluwalia, Advocate
for the applicant/petitioner.

Mr. Karanbir Singh, AAG, Punjab.

RAJ SHEKHAR ATTRI, J.(ORAL)

CRM-3361-2018

Application is allowed as prayed for.

Annexure P/10 is taken on record subjection to just exceptions.

CRM-M-2900-2016

This is a petition under Section 482 of Code of Criminal Procedure (in short 'the Code') for quashing of first information report bearing No.106 dated 13th September, 2012 registered at Police Station Bhogpur, District Jalandhar, under Sections 323, 324, 341, 506, 34 of Indian Penal Code (Annexure P-1) as well as consequential proceedings emanating therefrom.

It is alleged that petitioner was illegally declared proclaimed person as such, said order is liable to be *set aside*. It is further case of the petitioner that he left India for Canada on 20th December, 2012 and in his absence, he was declared proclaimed offender. It is specifically contended that petitioner has no information or knowledge with regard to registration of the FIR. However, remaining accused have already been acquitted of the charges framed against them.

This Court has heard learned counsel for the parties and gone through the material available on record.

Petitioner was out of country when impugned order was passed. No effort was made to effect his service through proper procedure. Apart from it, impugned order suffered from irregularities. Vide order dated 6th February, 2013 (Annexure P-6), it was ordered that petitioner be summoned through bailable warrants of arrest for 12th March, 2013 but said bailable warrants were received unserved, therefore, learned magistrate issued non-bailable warrants of arrest for 2nd May, 2013. Surprisingly, non-bailable warrants received unexecuted and it was ordered that proclamation under Section 82 of Code be issued against the petitioner for 8th August, 2013. *Section 82 of the Code requires the satisfaction of the magistrate either from his own belief or otherwise. It is his satisfaction that the offender has absconded or has been concealing himself so that such warrant cannot be executed* and only in this situation, the proclamation can be issued. Nothing is mentioned in order dated 2nd May, 2013 (Annexure P-6) if petitioner was willfully absconding.

It has been further contended that vide order dated 8th August, 2013, learned Judicial Magistrate Ist Class, Jalandhar issued proclamation under Section 82 of the Code for 29th August, 2013 i.e. period of less than 30 days was given for the proclamation which is not in accordance with law, therefore, impugned order dated 30.09.2013 is not sustainable and is *set aside* and interim order dated 27th January, 2016 is made absolute.

Disposed of accordingly.

(RAJ SHEKHAR ATTRI)
JUDGE

February 06, 2018
m. sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No