

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

250

CRM-M-33540-2017

Date of Decision:01.08.2018

Dilbagh Singh @ Dilbagh Sandhu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Ramesh Sharma, Advocate,
for the petitioner.

Mr. Surinder Pal Singh Tinna, Addl. A.G., Punjab.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing the order dated 17.04.2015 (Annexure P-3) passed by learned Sub Divisional Judicial Magistrate, Jagraon, whereby the petitioner has been declared proclaimed offender in FIR No.1 dated 26.04.2014 under Sections 420, 467, 468, 471 IPC, registered at Police Station NRI, District Ludhiana.

Learned counsel for the petitioner states that the petitioner was never served in this case and he was declared proclaimed offender vide impugned order (Annexure P-3) without adopting proper procedure of law. The police filed challan against the petitioner and in the challan, address of the petitioner was mentioned as “presently resident of England”, but the proclamation was made in his village and not in England, therefore, the proceedings initiated under Section 82 Cr.P.C. are not sustainable. He

further states that the petitioner is ready to face trial in accordance with law

and undertakes to appear before the trial court if a reasonable period of two months is granted to him to appear before the trial court, as he has to arrange tickets and make other arrangements in England. He further states that the petitioner has never visited India after registration of the case.

Learned State Counsel on instructions from the investigating officer states that the petitioner was declared proclaimed offender on 17.04.2015 and there being a dispute between two real brothers, proceedings were already in the knowledge of the petitioner.

I have heard learned counsel for the parties.

Perusal of the order dated 17.04.2015 nowhere reflects that the proclamation was made in England. The only recital in the order is that “accused Dilbag Singh has not turned up. Proclamation of accused was already effected”.

So once it is established that the accused who was declared proclaimed offender, is not residing within the jurisdiction of the court which is competent to declare the accused proclaimed offender and the petitioner having satisfied this Court that he remained out of India right from registration of the FIR, this Court finds that there is a justified reason for non-appearance of the petitioner as he was never served in the case. Moreover, dispute is between two real brothers for which civil litigation is also pending.

Be that as it may, without making any observations on the merits of the case, this Court is satisfied that the petitioner has shown his inclination to face trial and is ready to surrender before the trial court, he deserves one opportunity to face trial.

Accordingly, in case the petitioner appears before the trial court

within two months i.e. on or before 02.10.2018, the trial court shall admit him on bail, subject to furnishing of his bail bonds/surety bonds to its satisfaction.

Petitioner is resident of U.K., the trial court may put any other reasonable condition as it may deem fit.

The petitioner shall not be arrested from the airport so far as the present FIR is concerned.

The present petition is disposed of accordingly.

August 01, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No