

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

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CRM-M-40915-2018 (O & M)
Date of Decision:19.12.2018

Sukhwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ashish Bakshi, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

MANOJ BAJAJ, J.(ORAL)

Sukhwinder Singh has filed this petition under Section 482 Cr.P.C. for quashing of the order dated 14.01.2012, whereby the non-bailable warrants were issued against him by the Court, as well as the order dated 05.04.2012, whereby he was declared as proclaimed offender. The proceedings before the Court relate to case FIR No.51 dated 17.05.2008 under Sections 61/1/14 of the Excise Act, 1914, Police Station, Ladhawal, Ludhiana.

Learned counsel for the petitioner has contended that charges were framed by the learned trial Court on 05.09.2010 against accused Gurmit Singh alone. There was no charge framed against the petitioner by the learned trial Court, though the challan was filed by the police against

Gurmit Singh as well as Sukhwinder Singh. This fact is not disputed by learned counsel appearing on behalf of the State.

A perusal of the order dated 14.01.2012 reveals that the case was received by the Court by way of transfer on 07.04.2011. In the case file, there is no order in respect of the absence of accused Sukhwinder Singh. It is also mentioned in the order that the charge was framed against accused-Gurmit Singh only on 05.09.2010. The Court straight away proceeded to issue the non-bailable warrants against Sukhwinder Singh, without realizing that it was a mistake on the part of the Court and, therefore, it was not appropriate to resort to coercive steps against accused Sukhwinder Singh, as his absence before the Court could not have been treated as deliberate and willingful.

Later on the Court initiated the proceedings under Section 82 Cr.P.C. and passed the order dated 05.04.2012 and proceeded to declare Sukhwinder Singh as proclaimed offender.

Learned counsel for the petitioner at this stage pointed out that after passing of the order dated 05.04.2012, the trial in respect of accused Gurmit Singh ended in acquittal on 09.04.2012. This fact is also not disputed by the learned State counsel.

Considering the above facts and circumstances of the case, it is absolutely clear that accused Sukhwinder Singh cannot at all be blamed for his absence, when the non-bailable warrants were issued by the Court against him. Resultantly, the subsequent proceedings initiated for declaring him proclaimed offender are also not sustainable.

In view of the above, the impugned orders dated 14.01.2012

and 05.04.2012 are set aside. The petitioner has also expressed his willingness to appear before the learned trial Court to participate in the proceedings relating to the FIR in question and resultantly, it is directed that the petitioner shall appear before the learned trial Court on or before 30.01.2019 and thereafter the Court shall proceed in accordance with law.

Accordingly, the present petition is disposed off.

19.12.2018

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No