

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 43738 of 2018 (O&M)

Date of decision : 4.10.2018

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Monu Kumar

.....Petitioner

vs.

State of Punjab and another

.....Respondent

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

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

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H. S. Madaan, J. (Oral)

This petition under Section 482 Cr.P.C. for quashing of FIR No. 123 dated 2.4.2015, for offences under Sections 363, 366 (A) IPC registered at Police Station Jodhewal, Ludhiana City and all other consequential proceedings arising out of the same including order dated 4.1.2016 declaring the petitioner as proclaimed offender, on the basis of compromise.

At the very outset, it may be said that petitioner- Monu Kumar is an absconder. He cannot file the petition and challenge the order declaring him proclaimed offender in such a manner. Whatever faults he is trying to find out with the order declaring him a proclaimed offender should be brought to the notice of the Court, which has declared him a proclaimed offender so as to get the order set aside and get bail therefrom. This tendency to approach the High Court directly without going to the trial court, is not proper.

In authority reported as **Mehnga Singh vs. State of Punjab**

2002 (2) RCR (Criminal) 501, by a Coordinate Bench of this Court, wherein dealing with a similar situation, where the accused had been declared as proclaimed offender and a petition under Section 482 Cr.P.C. challenging that order had been filed in this court, it was observed that when an accused has been declared as proclaimed offender, a petition against the order under Section 482 Cr.P.C. is not maintainable and that 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 that power under Section 482 Cr.P.C. is not to be exercised in favour of a person who is absconder or avoiding service.

This authority finds application to the facts of the present case. The petitioner instead of approaching the court of Judicial Magistrate Ist Class, Ludhiana, which had declared him proclaimed offender, putting forward all the pleas in support of his case, has straightway come to this Court by way of filing the present petition under Section 482 Cr.P.C., which is certainly not maintainable.

Learned counsel for the petitioner has referred to judgment by Coordinate Bench of this Court in **CRM-M-4528-2017, titled as Raghubir Singh and others vs. State of Punjab and another**, decided on 31.5.2017 and **CRM-M-43863-2016 titled as Gurdian Singh @ Toni vs. State of Punjab and another**, decided on 13.2.2017. These judgments are distinguishable to the facts of the present case.

In view of authority in **Mehnga Singh's case (Supra)**,

referred to above, by a Coordinate Bench of this Court, objections regarding legality and validity of the proclamation is required to be raised in the first instance before the Court which issued the proclamation and not before the higher Court by way of filing petition under Section 482 Cr.P.C.

Therefore, the present petition is doomed for failure and is dismissed accordingly.

The petitioner may surrender in the trial Court and apprise it of his case, moving an application for regular bail, and then if that order, declaring the petitioner as proclaimed offender, is set aside by the trial Court, then the petitioner may come again seeking quashing of the FIR and ancillary proceedings, on the basis of compromise.

4.10.2018
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(H.S. Madaan)
Judge

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