

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

CRM-M No.44269 of 2018

Date of decision: 10th October, 2018

Amritpal Sharma

... Petitioner

Versus

State of Union Territory, Chandigarh & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Gurbir Singh Toor, Advocate for the petitioner.

FATEH DEEP SINGH, J.

A case by way of FIR No.100 dated 15.05.2016 under Sections 323, 341, 506, 354, 406, 498-A, 34 IPC was got registered with Police Station Sector 36, Chandigarh by petitioner Ms. Amritpal Sharma against her husband Jaminder Kaushal (who is residing in USA), Bhuminder Kaushal (younger brother of the husband) and Surinder Kaur (mother of the husband). Consequent upon the investigations, challan against the accused was presented except against the husband Jaminder Kaushal. Through the present petition, the petitioner wife is seeking a prayer for issuance of directions to the investigating officer to initiate proceedings under Section 82 Cr.P.C. against the husband and to declare him to be a proclaimed offender.

Upon hearing Mr. Gurbir Singh Toor, Advocate for the petitioner and on perusal of the records. It is the own admitted stand of the petitioner that her husband resides in USA and has failed to appear

before the investigating officer and thus, challan against the remaining accused has been filed. The provisions of Chapter V of the Cr.P.C. pertain to arrest of persons and which deals with the procedure of arrest of a person against whom warrants are issued and further procedure by the Magistrate before whom such a person, if arrested, is brought. Section 82 of the Cr.P.C. is specifically legislated to deal with the issuance of proclamation where, if any Court has any reason to believe that any person against whom warrant has been issued, has absconded or is concealing himself and that the warrants could not be executed, the Court may publish a written proclamation requiring him to be at a specified place and time not less than 30 days from the date of such proclamation, and if the person fails to appear, declare him to be a proclaimed offender/person. In case of failure, provisions of Section 83 Cr.P.C. have to come into play by way of attachment of property of the person so absconded.

Rather than moving the learned Magistrate below, the petitioner has directly come up before this Court after her alleged claim that the official respondents failed to act on her representation, when it is the Illaqua Magistrate (Judicial) who is supposed to look into this aspect of the matter. Furthermore, if it is so necessitated, the Court can have recourse to the provisions of Section 105 and 105-B Cr.P.C. By moving this Court, which is not necessitated at this juncture nor any cause has arisen to do so, the petitioner has not only jumped over the statutory

provisions of law but has also broken the chain of judicial hierarchy.

There being no merit, the petition stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

October 10, 2018

rps

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