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

**CRM-M No.9624 of 2016
Date of Decision: 15.02.2018**

HARPREET SINGH

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Harsh Bunger, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J. (Oral)

Petitioner has preferred this petition for quashing of FIR No.59 dated 23.06.2010 registered under Sections 406, 420, 120-B IPC at Police Station Sadar, SBS Nagar, District SBS Nagar and order dated 17.01.2013 passed by the Judicial Magistrate Ist Class, SBS Nagar vide which petitioner was declared to be a proclaimed offender.

On 29.08.2016, learned counsel for the petitioner made a statement that the petitioner would confine his prayer only to the extent of seeking quashing of the order dated 17.01.2013 vide which he was declared as a proclaimed offender. Prayer of

quashing of FIR was withdrawn at that stage.

Learned counsel referred to the order dated 03.10.2012 passed by the Judicial Magistrate Ist Class, SBS Nagar to show that non-bailable warrants of accused Sumit and Harpreet Singh were received back with an endorsement that they were evading their arrest. The Court was satisfied with the said report and recorded its satisfaction that presence of the accused persons cannot be secured through ordinary process and they be summoned through proclamation for 17.10.2012.

As per Form No.4 of proclamation requiring the appearance of the accused persons under Section 82 Cr.P.C., the proclamation was issued on 09.10.2012 and peshi was shown on 17.10.2012.

Learned counsel pointed out that proclamation was effected on 10.10.2012 and from that date, clear notice of 30 days was required to be given to the petitioner. Fixing the case for 17.10.2012 after the proclamation dated 10.10.2012 would not be in consonance with the ratio of **Ashok Kumar vs. State of Haryana and another, 2013(4) R.C.R. (Criminal) 550.**

Learned counsel also pointed out that notice dated 09.10.2012 was deficient in terms of mandatory requirement of provisions in terms of Section 82(1) Cr.P.C. Co-accused of the petitioner have faced the trial and they have been acquitted by

the trial Court vide judgment of acquittal dated 14.08.2017.

At this stage, I deem it appropriate to allow the petitioner to appear before the trial Court. Consequently, the impugned order dated 17.01.2013 passed by the Judicial Magistrate 1st Class, SBS Nagar is set aside. Petitioner is directed to appear before the trial Court on 22.02.2018 and in the event of his appearance, he shall be granted bail subject to the satisfaction of the trial Court. Thereafter, the trial Court shall proceed with the matter in accordance with law.

Petition stands disposed of.

February 15, 2018

(RAJ MOHAN SINGH)
JUDGE

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No