

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

**CRM-M-6036-2017(O&M)
Date of decision:-6.8.2018**

Trishkova Kataria

...Petitioner

Versus

Harmesh Rani

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Rajiv Joshi, Advocate
for the petitioner.

Mr.Ankur Bansal, Advocate
for the respondent.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. seeking quashing of order dated 15.10.2016 and criminal complaint titled "Harmesh Rani Versus Sant Ram Kataria and others" along with ancillary proceedings pending before the trial Court at Jalandhar, which include summoning order dated 2.4.2011 has been filed by petitioner - Trishkova Kataria, who has been declared a proclaimed offender vide order dated 7.12.2015.

Now the question arises whether such petition by an accused, who is presently putting up in USA and who has been declared

as a proclaimed offender is maintainable at her instance, the answer has to be in negative. Though the petitioner has challenged the order dated 7.12.2015 vide which she had been declared a proclaimed offender but as is evident from her own pleadings, she had preferred a revision petition against the summoning order dated 2.4.2011 before the Court of Sessions at Jalandhar, which was dismissed vide order dated 15.10.2016, that means the petitioner was aware of pendency of complaint against her and the order summoning her as an accused. Therefore, she cannot take the plea that since she had already left for USA in December, 2015 and petition was filed in the year 2010, therefore she was not aware of the proceedings.

I have seen the impugned order declaring the petitioner as proclaimed offender and I do not find any fault therewith.

In *Mehnga Singh Versus State of Punjab, 2002(2) R.C.R.(Criminal) 501*, it has been 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 absconding or avoiding service.

Therefore, the petition cannot proceed further unless the petitioner gets the order declaring her as proclaimed offender set aside by approaching the Court, which had declared her as a proclaimed offender.

Hence, the petition stands dismissed accordingly.

6.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No