

CRM-M-13503-2018

Date of decision: March 25, 2019

Ravinder Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWANPresent: Mr. Sukhjit Singh, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer made in the present petition is for quashing of the FIR No.14 dated 10.2.2018 (Annexure P-5) registered under Section 174-A IPC at Police Station Badhni Kalan, District Moga as well as the order dated 6.1.2011 (Annexure P-2) vide which the petitioner has been declared as proclaimed offender in FIR No.95 dated 27.9.2007 registered under Sections 160, 148, 149 IPC at Police Station Badhni Kalan, District Moga.

Counsel for the petitioner submits that the petitioner was declared a proclaimed offender vide impugned order dated 6.1.2011 (Annexure P-2) whereas the offence in FIR No.95 dated 27.9.2007 under Sections 160, 148, 149 IPC, which do not fall in the category of the cases as per Section 82(4) Cr.P.C. where a person can be declared a proclaimed offender and, therefore, the petitioner can only be declared a proclaimed person. Counsel for the petitioner further submits that, in fact, the petitioner has gone abroad on study visa and on that account, he was declared a proclaimed offender.

Counsel for the petitioner submits that the petitioner surrendered before the trial Court on 31.8.2017 and he was granted regular bail. Counsel for the petitioner further submits that the impugned FIR was registered under Section 174-A on 10.2.2018, i.e. after a lapse of about seven years and the only allegation against the petitioner is that he was declared a proclaimed offender on 6.1.2011. Counsel for the petitioner also submits that prior to registration of this FIR, the petitioner has already appeared in the FIR No.95 and, thereafter, he faced the full length trial and ultimately, the petitioner, alongwith three other co-accused, namely, Jugraj Singh, Rupinder Singh and Sukhbir Singh, was acquitted by the trial Court vide its judgment dated 5.3.2018. Counsel for the petitioner has further submitted that in the absence of any evidence to prove the charge under Sections 160, 148, 149 IPC, all the accused persons, including the petitioner, were acquitted of the charges by the trial Court and this judgment has attained finality.

Counsel for the petitioner has relied upon Smt. Deeksha Puri Vs. State of Haryana, 2013(1) RCR (Criminal) 159, wherein it has been held by this Court that the order declaring him as a proclaimed offender is liable to be set aside as the petitioner could only be declared a proclaimed person and not a proclaimed offender as the offences under Sections 160, 148, 149 IPC do not fall in the category of offences described under Section 82(4) of the Code of Criminal Procedure.

Learned State counsel, on the basis of the reply filed by the DSP, Nihal Singh Wala, Moga could not dispute the factual position as

well as the relevant dates when the petitioner was declared a proclaimed offender and after his surrender before the trial Court, he was granted the regular bail. It is also not disputed that the impugned FIR was registered much after the petitioner was granted the regular bail and thereafter, the petitioner stands acquitted in the FIR No.95 dated 27.9.2007.

In view of the same, this petition is allowed and FIR No.14 dated 10.2.2018 registered under Section 174-A IPC at Police Station Badhni Kalan, District Moga as well as the order dated 6.1.2011 vide which the petitioner has been declared as proclaimed offender in FIR No.95 dated 27.9.2007 registered under Sections 160, 148, 149 IPC at Police Station Badhni Kalan, District Moga are quashed.

(ARVIND SINGH SANGWAN)
JUDGE

March 25, 2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No