

Sr. No.122

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

**CRM-M-13637-2019(O&M)
Date of decision:26.03.2019**

Amrik Singh

.....Petitioner

versus

State of Punjab and another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

**Present: Mr. Nakul Sharma, Advocate
for the petitioner.**

Rajbir Sehrawat, J(Oral)

Present petition has been filed for quashing of the Order dated 01.07.2016(Annexure P-3) passed by JMIC Hoshiarpur whereby the petitioner was illegally declared Proclaimed person in criminal complaint No.78/10/15 dated 20.12.2010 under Sections 452/323/324/506/148/149 IPC.

Learned counsel for the petitioner submits that he has the instructions to restrict the present petition only qua the challenge to the Order dated 01.07.2016(Annexure P-3) passed by the Trial Court, whereby, the petitioner has been declared as proclaimed person and not to press the same qua the prayer for quashing of the criminal complaint itself.

Accordingly, the present petition is entertained only qua challenge to the Order dated 01.07.2016(Annexure P-3).

Learned counsel for the petitioner contends that although the complaint is of the year 2010, however, the summoning order was passed by the Trial Court only on 05.10.2015. However, before that the petitioner had already gone abroad. He has been residing in Spain since 2014. Therefore,

the petitioner was never served with any notice, summon or warrant from any Court. Hence the petitioner has wrongly been declared as a proclaimed person without following the due procedure as prescribed under Section 82 Cr.P.C. It is further submitted that since the petitioner has now come to know of the proceedings, therefore, he intends to appear before the Trial Court to face the further proceedings in accordance with law. It is further submitted that the petitioner has no intention to flee from the course of justice. The only prayer is that the petitioner be protected against her arrest.

Notice of motion.

On the asking of the Court, Shri P.S.Walia, AAG, Punjab accepts notice on behalf of the State of Punjab and submits that he has no objection if the petitioner appears before the Trial Court

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

In view of the above, the present petition is allowed subject to the petitioner appearing before the trial Court on or before 05.04.2019. It is further directed that in case, the petitioner so appears before the trial Court then the petitioner shall be released on bail on his furnishing bail bond/surety to the satisfaction of the Trial Court.

26th March, 2019

Shivani Kaushik

[RAJBIR SEHRAWAT]

JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*