

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-14982-2019

Date of Decision:14.08.2019

Surinder Singh

...Petitioner

Versus

State of Punjab

...Respondent(s)

CRM-M-21686-2019

Harjap Singh

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None.

ANIL KSHETARPAL, J.

This order shall dispose of above-said two petitions bearing CRM-M-14982-2019 and CRM-M-21686-2019 arising out of impugned FIR.

Since, the issue involved in both the petitions is common, therefore, the facts are being noticed from CRM-M-14982-2019. On 01.04.2019, following order was passed by this Court:-

“The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.58 dated 29.07.2011 (Annexure P-3) under Section 174-A of Indian Penal Code, registered at Police Station Chabbewal, District Hoshiarpur.

The petitioner was accused in case FIR No.176 dated

08.12.2003 under Sections 454, 380, 447, 427, 506, 148 & 149 of Indian Penal Code. Learned counsel for the petitioner states that he has been residing in U.K. for the last almost five decades. As the petitioner did not appear before the learned trial Court, he was declared proclaimed offender vide order dated 01.04.2006, passed by learned Judicial Magistrate Ist Class, Hoshiarpur. He further states that in the report of Lamberdar, it was specifically mentioned that the petitioner was residing in England (U.K.) for the last 30/35 years. Thus the petitioner was not served yet he was declared proclaimed offender. He further states that the petitioner has since been acquitted in the said FIR No.176 dated 08.12.2003 vide judgment and order dated 26.07.2018, passed by learned Judicial Magistrate Ist Class, Hoshiarpur (Annexure P-4).

Notice of motion for 31.05.2019.

Meanwhile, proceedings before the trial Court shall remain stayed.”

From the reading of the petition, it is apparent that the petitioners in both the cases were accused in FIR No.176 dated 08.12.2003 registered under Sections 148/380/427/447/454/506/149 IPC at Police Station Chabbewal, District Hoshiarpur. The petitioners were declared proclaimed offenders. The petitioners Harjap Singh and Surinder Singh thereafter surrendered before the learned trial court and they have been acquitted vide judgments dated 23.11.2016 and 26.07.2018 respectively.

FIR No.58 dated 29.07.2011 registered under Section 174-A IPC at Police Station Chabbewal is pending as at one stage the petitioners were declared proclaimed offenders. When the petitioner in CRM-M-14982-2019, was sought to be served during the trial, it was reported as under:-

“Balbir Singh resident of Muggo Patti

It is stated that I am the resident of above stated address

and I know all the people in the village. Surinder Singh son of Dilbag Singh Caste Ramgarhia----- he is not in the village. He resides in England (U.K.)..... he is living in England for the last 30/35 years.....”

It is the case of both the petitioners that they are/were residing out of country for quite some time. Before declaring an accused a proclaimed offender, sincere effort has to be made to serve the accused. In the present case, it is not clear as to whether any sincere effort was made after it was reported by the process server that the petitioners are residing out of country.

Be that as it may, once the petitioners have already surrendered and have been acquitted after facing agony of trial. The purpose for which the petitioners were declared proclaimed offenders stands fulfilled as they had thereafter surrendered and faced the trial. Since no reply has been filed, therefore, it is safe to assume that acquittal of the petitioners vide judgment dated 26.07.2018 and 23.12.2016 is not in dispute.

Consequently, FIR No.58 dated 29.07.2011 registered under Section 174-A IPC at Police Station Chabbewal, District Hoshiarpur and the consequential proceedings arising therefrom are ordered to be quashed, qua the petitioners only.

Resultantly, with the above-said observations made, both these petitions stand allowed.

14.08.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No