

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M- 19916 of 2019 (O&M)
Date of Decision:02.05.2019

Jarnail Singh

.....Petitioner

Vs.

Bhajan Singh and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Amit Dhawan, Advocate
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

Present petition has been filed for quashing of complaint bearing No. 17/2016 dated 18.08.2006 titled as Bhajan Singh vs. Joginder Singh and others (Annexure P-3) filed under Sections 326, 324, 323, 506, 148 and 149 of the Indian Penal Code (for short 'the IPC') before learned Judicial Magistrate Ist Class, Nakodar and the subsequent summoning order dated 3.7.2010 (Annexure P-4) and the order dated 15.09.2011 (Annexure P-6) vide which the petitioner has been declared as proclaimed offender.

At the outset, counsel for the petitioner has submitted that he has instruction to restrict the present petition only qua challenge to the order of declaring the petitioner as proclaimed offender and not to press the same qua challenge to the complaint and the summoning order, at this stage.

Accordingly, the present petition is entertained only qua challenge to the order dated 15.09.2011, whereby the petitioner has been declared as proclaimed offender by the trial Court.

It is contended by counsel for the petitioner that the petitioner is not involved in this alleged crime. In any case, the procedure for declaring the petitioner as proclaimed offender has not been properly

followed in this case. The petitioner has never been served any notice, summons or warrants, issued by any Court, in accordance with law.

It is further submitted that even as per the knowledge of the prosecution, the petitioner had gone abroad much before the date when he was declared as proclaimed offender or was even summoned. Therefore, there is no question of the petitioner being served with any notice, summon or warrants by complying the requirement of section 82 of the Code of Criminal Procedure. It is also submitted that since the petitioner now comes to know that he was summoned in this case and he had been declared as proclaimed offender, therefore, he is ready to appear before the trial Court to face further proceedings, in accordance with law. The petitioner has not intention to flee from the course of justice. The only prayer is that the petitioner be protected against his arrest.

Notice of motion.

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

In view of the order being passed herein below, this Court does not find it necessary to issue notice to the private respondents at this stage.

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.

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Accordingly, the present petition is allowed subject to the petitioner appearing before the trial Court on or before 27.05.2019. 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.

May 02, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned Yes
Whether Reportable Yes/No