

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-43483 of 2015

.....

Date of decision:07.03.2019

Harbans Lal

.....Petitioner

v.

State of Punjab

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Vikas Sharma, Advocate for the petitioner.

Mr. Dhruv Dayal, Senior Deputy Advocate General, Punjab
for the respondent-State.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.181 dated 5.11.2015 (Annexure-P.1) registered for the offence under Section 174-A IPC at Police Station Fatehgarh Sahib, District Fatehgarh Sahib and all subsequent proceedings arising out of it.

Notice of motion was issued in this case.

Mr. Dhruv Dayal, learned Senior Deputy Advocate General, Punjab has appeared on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

The order declaring the present petitioner as proclaimed person by the learned Civil Judge (Junior Division), Fatehgarh Sahib has been mentioned in para 4 of the petition. A perusal of the order itself shows that

in the civil proceedings the present petitioner was plaintiff's witness and he did not appear before the Court despite issuance of bailable warrants. Therefore, proceedings under Section 82 Cr.P.C. were initiated against him and he was declared as proclaimed person and intimation in this regard was sent to SHO concerned to register an FIR under Section 174-A IPC.

A perusal of the record shows that the learned Civil Judge (Junior Division) has followed the procedure of declaring the present petitioner as proclaimed person under Section 82 Cr.P.C. For conducting the proceedings of civil suit Code of Civil Procedure applies and for criminal proceedings, Criminal Procedure Code applies. In the civil case, the learned Civil Judge (Junior Division), Fatehgarh Sahib has illegally applied the provisions of Section 82 Cr.P.C. which on the face of it shows that the order passed by the learned Civil Judge (Junior Division) declaring the present petitioner as proclaimed person for not appearing as a witness in the civil suit is illegal and against the law and amounts to miscarriage of justice. There is separate procedure given under the CPC for ensuring the presence of the witness by issuing warrants and then by attaching the property of the witness etc. In no way, the proceedings under Section 82 Cr.P.C. can be held in the civil suit.

Therefore, from the above, I find that declaring the petitioner as proclaimed person and then the registration of the FIR under Section 174-A IPC and all subsequent proceedings are nothing but amounts to miscarriage of justice.

Therefore, keeping in view the facts and circumstances of this case, this petition is allowed and FIR No.181 dated 5.11.2015 (Annexure-

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P.1) registered for the offence under Section 174-A IPC at Police Station Fatehgarh Sahib, District Fatehgarh Sahib and all subsequent proceedings arising out of the same are hereby quashed.

March 07, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No