

Sr. No.135

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

**CRM-M-25472-2019(O&M)
Date of decision:30.05.2019**

Bahadur Singh

..... Petitioner

versus

State of Punjab and another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Rakesh Kumar, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for seeking quashing of the Complaint No.85 of 2003 dated 15.04.2003 decided on 17.12.2013 (Annexure P-1) and summoning order dated 17.04.2004(Annexure P-2) under Sections 323, 452, 324, 149 IPC and Order dated 09.03.2007 (Annexure P-3) whereby the petitioner has been declared as proclaimed offender.

Learned counsel for the petitioner submits that he has instructions to restrict the present petition only qua challenge to the Order dated 09.03.2007(Annexure P-3) whereby the petitioner was declared as proclaimed offender in Complaint No.85 of 2003 under Sections 452/323/324/148/149 IPC and not to press the present petition qua the challenge to the complaint as such.

Accordingly, the present petition is restricted and entertained only qua challenge to the Order dated 09.03.2007(Annexure P-3).

It is contended by learned counsel for the petitioner that the

instant complaint was lodged in the year 2003. The petitioner was abroad even prior to that. Thereafter, the petitioner has never returned to India. Even as of today, the petitioner is abroad. Therefore, the procedure prescribed under Section 82 Cr.P.C has not been properly followed before declaring the petitioner as proclaimed offender. No notice, summon or warrants issued by any Court was ever served upon the petitioner, as per law, before declaring him proclaimed offender. However, now the petitioner has come to know that he has been declared as proclaimed offender, therefore, the petitioner intends to appear before the Trial Court to face further proceedings in accordance with law. He has no intention to flee from the course of justice. The only prayer is that the petitioner be protected from the arrest. Still further, it is submitted that even in the subsequent FIR under Section 174-A IPC, arising from similar order, the co-accused already stand acquitted. Even in the main complaint, all the co-accused have already been acquitted by the Court.

Notice of motion.

On the asking of the Court, Shri K.S.Aulakh, DAG, 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

At this stage, this Court does not find it necessary to issue the notice to respondent No.2, in view of the nature of the Order intended to be passed hereinbelow.

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. Order dated 09.03.2007(Annexure P-3) is quashed subject to the petitioner appearing before the trial Court on or before 06.08.2019. 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.

30th May, 2019

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*