

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

**CRM-M No.40918 of 2019 (O&M)
Date of Decision: 05.11.2019**

Sukhwinder Singh @ Lovely

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Inderpal Singh, Advocate for the petitioner.

Mr. Venu Gopal Jauhar, Sr. DAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.31 dated 29.05.2009, under Sections 452, 323, 506, 34 of the Indian Penal Code, 1860, registered at Police Station Purana Shalla, District Gurdaspur as well as order dated 16.04.2011, whereby the petitioner was declared as proclaimed offender.

This Court, while issuing notice of motion on 24.09.2019, passed the following order:-

“ Contends that instead of praying for quashing of FIR in question, the petitioner confines his prayer only to challenge the order dated 16.04.2011 (P-2).

Notice of motion returnable on 05.11.2019.

In the meantime, the petitioner is directed to join proceedings before learned trial Court within one week from today and be released on interim bail, till the next date of hearing, subject to its satisfaction. ”

Learned Counsel for the petitioner has apprised the Court that in terms of above order dated 24.09.2019, passed by this Court, petitioner has joined the proceedings and undertakes to appear regularly before learned trial Court.

The factum of joining the proceedings by the petitioner is duly acknowledged by learned State Counsel, on instructions from SI Nachattar.

It is contended on behalf of the petitioner that after registration of the above FIR, the matter was amicably settled between the parties with the intervention of the neighbours on 20.10.2009 and thereafter, petitioner went abroad on 18.11.2009 and a reference is made to Annexure P-3. Further contended that when the petitioner was abroad, then, case was pursued by the complainant side and petitioner was declared as proclaimed offender in his absence by learned Judicial Magistrate 1st Class, Gurdaspur, vide order dated 16.04.2011 (Annexure P-2) without following due procedure, prescribed under Section 82 Cr.P.C. and thus, the same is not legally sustainable.

The veracity of Annexure P-3 is not disputed by learned State Counsel and even there is no denial to the compromise effected between the parties also.

Thus, it is absolutely clear that petitioner was declared as proclaimed offender in his absence and as such, it cannot be assumed that he was aware about the pendency of the proceedings under Section 82 Cr.P.C.

In view of above, impugned order dated 16.04.2011 (Annexure P-2) is set aside and interim order dated 24.09.2019, passed by this Court, is

made absolute and the present petition stands disposed off.

It is made clear that the petitioner shall fully co-operate with the learned trial Court and will not seek unnecessary adjournments.

The observations, made above, including compromise may not be considered as an expression of opinion on the merits of the case.

November 05, 2019
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>