

S.No.126

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

CRM-M-48095 of 2019 (O&M)

Date of Decision:13.11.2019

Mandeep Singh @ Amandeep Singh @ RanaPetitioner

Vs.

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Ritesh Pandey, Advocate for the petitioner.

Rajbir Sehrawat, J.(Oral)

This is a petition seeking quashing of criminal complaint No.127 dated 18.04.2019 pending in the Court of JMIC Gurdaspur, registered under Sections 326, 324, 323, 506, 148, 149 IPC and summoning order dated 26.03.2014 and all the subsequent proceedings including the order declaring the petitioner as proclaimed offender dated 17.11.2014 keeping in view the fact that the co-accused of the petitioner were acquitted vide judgment dated 08.07.2016 and 11.08.2017 respectively.

At the outset, learned counsel for the petitioner submits that he has the instructions not to press the present petition qua the challenge to the complaint and the summoning order as such. Therefore, the present petition be restricted qua challenge to the order dated 17.11.2014 passed by the trial Court, whereby, the petitioner was declared as a proclaimed offender.

Ordered accordingly. The present petition is entertained only qua challenge to the order declaring the petitioner as proclaimed offender.

It is submitted by counsel for the petitioner that the complaint in the present case was instituted by the complainant on 18.04.2009. The summoning order in the complaint was passed by the trial Court on

26.03.2014. However, the petitioner had already gone abroad in the year 2003. Hence, the petitioner was not even in India, either on the date of institution of the complaint or on the date of passing of the summoning order. Since the petitioner was not even in India, therefore, the petitioner never received any notice, summon or warrant from the trial Court regarding the complaint against him. Hence, the petitioner has wrongly been declared as a proclaimed offender in violation of the procedure prescribed under Section 82 Cr.P.C. Still further, it is pointed out by the counsel that even the co-accused of the petitioner has since been acquitted by the trial Court on appreciation of the evidence led in the trial. The allegations against the petitioner are lesser in gravity even to the allegations against the co-accused who has since been acquitted. Counsel has also submitted that although earlier the petitioner was not aware of the proceedings pending against him, however, now since the petitioner has come to know of the proceedings against him, therefore, the petitioner intends to appear before the trial Court to face further proceedings; in accordance with law. The only prayer is that the petitioner be protected against his arrest.

In view of the nature of the order which this Court intends to pass, the Court does not find it necessary to issue any notice to the opposite side. Hence, the present petition is being disposed of without issuance of the notice to the respondent.

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 subject to the petitioner appearing before the trial Court on or before 27.11.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 27.11.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

November 13, 2019
renu

(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No