

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

CRM-M No.49306 of 2018

Date of decision: 17th December, 2019

Harbhajan Singh

... Petitioner

Versus

State of Punjab & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Himanshu Rao, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab
for respondent No.1/State.

Mr. Dinesh Nagar, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

Petitioner Harbhajan Singh who is an accused in case bearing FIR No.6 dated 20.05.2015 under Sections 409, 420, 465, 467 IPC pertaining to Police Station NRI, Shaheed Bhagat Singh Nagar, was declared as a proclaimed offender vide orders dated 18.01.2017 (Annexure P5) and has come up before this Court under Section 482 Cr.P.C. seeking quashing of the same.

Heard Mr. Himanshu Rao, Advocate for the petitioner; Ms.Sakshi Bakshi, Assistant Advocate General, Punjab on behalf of respondent No.1/State; Mr. Dinesh Nagar, Advocate representing respondent No.2 and perused the records.

The brief background of this case is that a complaint was lodged by one Amandeep Kaur against Harbhajan Singh (present petitioner), his wife Amarjit Kaur, Harjinder Singh, Guri Rana, Ram Lubhaya and ASI Dilbagh Singh all accused under Sections 452, 323, 354, 380, 504, 506, 148, 149 IPC pertaining to Police Station City Banga, District Shaheed Bhagat Singh Nagar. The complainant has alleged that she was resident of village Khatkar Khurd and along with her mother-in-law Surinder Kaur and other family members is residing in the village for the last 20 years. The house where the complainant resides, has been given to Surinder Kaur, mother-in-law of the complainant, by one Niranjana Singh, father of the present petitioner by way of writing dated 18.02.2010 by virtue of her services rendered to Niranjana Singh and after the death of Niranjana Singh, all the accused connived with each other and tried to forcibly evict the complainant regarding which she made a complaint on 30.11.2011 to the Deputy Commissioner, SBS Nagar. The allegations against present petitioner Harbhajan Singh are that on the day of occurrence i.e. 03.12.2011 around 6:00 p.m. the accused petitioner has raised lalkara exhorting his co-accused to catch hold of the complainant and teach her a lesson at which it is alleged that Amarjit Kaur caught hold of the complainant from both of her arms and accused Harjinder Singh gave blows on the face of the complainant followed by Amarjit Kaur, Ram Lubhaya and ASI Dilbagh Singh giving kick blows to the

complainant. It is further alleged that Guri Rana molested the complainant with a view to outrage her modesty and tore off her wearing apparels and on raising of rroulla attracted people and while leaving the accused threatened her with dire consequences. The complainant claims that the police failed to act on it and that is how she was compelled to file complaint.

The Court of Judicial Magistrate 1st Class, SBS Nagar vide orders dated 30.08.2016 summoned the accused for commission of offences punishable under Sections 323, 452, 506, 147, 149 IPC. The petitioner claims that at the time of passing of the summoning order as well as the alleged service of process of the Court leading to passing of the impugned order (Annexure P5) declaring him to be a proclaimed offender, the petitioner was residing in England unaware of any orders of the Court. The petitioner claims that he is permanent resident of England and was unaware of the proceedings being carried on which are for a motivated cause to force and pressurize the petitioner not to claim his legal right to the property where the complainant claims she was residing with her family.

This Court in '**Avtar Singh v. Harminder Singh Kang**' (CRM-M No.12547 of 2016) and a bunch of petitions decided on **23.11.2016**, while considering the likely situations and their likely solutions which can come to the aid of or against a person declared as

proclaimed offender by resort to provisions of Section 82(4) Cr.P.C. had broadly given illustrative grounds and the relevant part whereof is reproduced below:-

“1. Where a person so declared was never within the knowledge of being arrayed as an accused and was never reasonably served with the process of the Court or in a situation where for obvious reasons in spite of being available had sought to be proceeded against on the basis of wrong and imaginary particulars of residency or may be residing abroad when the process against him was initiated. In such a case this Court is of the opinion that such an order declaring a person so placed in this situation to be having a bona fide case, a genuine grievance of a process having been undertaken against him at his back, contrary to the well enshrined principles of law and therefore, has every right to come to this Court under the aid of Section 482 Cr.P.C. as it is within the ambit where there is an exceptional circumstance to meet the ends of justice.”

In the present case, it is fairly conceded at the bar by learned State counsel as well as learned counsel for the complainant that the petitioner has a genuine and bona fide reason of not putting in appearance as he was in oblivion as to the process initiated against him in the Court of law and therefore, has every reason to claim that the process was

initiated at his back of which he was totally unaware. Thus, this is a clear cut case where the petitioner having been unaware was held to be a proclaimed offender and the interest of justice demands that the law needs to come to his aid and impels this Court to exercise its inherent jurisdiction under Section 482 Cr.P.C. and thereby quash the impugned order dated 18.01.2017 (Annexure P5). In view thereof, the present petition stands allowed in those terms. The petitioner to appear before the trial Court within two months from today.

(FATEH DEEP SINGH)
JUDGE

December 17, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No