

AT CHANDIGARH

CRM-M-3449-2020(O&M)

Date of decision: 17.09.2020

Sandeep Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Gulzar Mohammad, Advocate for the petitioner

Mr. Pawan Sharda, Sr. DAG, Punjab

ANIL KSHETARPAL, J. (ORAL)CRM-22842-2020

Allowed, as prayed for. Annexures P-6 to P-15, are taken on record.

Main case

Learned counsel for the petitioner submits that he does not press the prayer for quashing of the FIR no.26, dated 15.3.2016.

Learned counsel for the petitioner while drawing the attention of the Court to Annexure P-6, a copy of the application filed by the Investigating Agency, seeking issuance of non-bailable warrants against the petitioner, contends that it was in the knowledge of the investigating agency that the petitioner has shifted to Dubai. He further contends that rather than making efforts to serve warrants to the petitioner in Dubai, the petitioner was declared a proclaimed person by publishing a notice under Section 82 Cr.P.C., in Jalandhar. He, hence, submits that the proceedings carried out for declaring the petitioner a proclaimed person, are illegal.

Notice of motion.

On the request of the Court, Mr. Pawan Sharda, Sr. DAG, Punjab, accepts notice on behalf of respondent- State of Punjab.

At this stage, service of notice on respondent no.2, is dispensed with.

Once, it is apparent from the record that the prosecuting agency was in knowledge of the fact that the petitioner has started residing in Dubai, the proceedings under Section 82 Cr.P.C., could not have been initiated without getting complete details of the address of the petitioner, who at that time was residing in Dubai. Hence, the publication of notice under Section 82 Cr.P.C., at Jalandhar, particularly, when the prosecuting agency was in the knowledge of the fact that the petitioner resides in Dubai, was patently illegal.

Learned counsel submits that the petitioner ready to appear before the court to face the trial of the case. Keeping in view the aforesaid facts, the order dated 11.11.2013 (Annexure P-3), passed by the Judicial Magistrate, First Class, Jalandhar, declaring the petitioner a proclaimed person, is set aside. However, this is subject to the condition that the petitioner would surrender before the Court of Judicial Magistrate, First Class, Jalandhar, within 15 days from today and furnish bail bonds/surety bonds to the satisfaction of the Trial Court. Since this order has been passed without issuing notice to respondent no.2, therefore, she would be at liberty to move an application for recalling/modification of the order, if so advised.

With the aforesaid observations, present petition is disposed of.

17.09.2020

rekha

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No

(ANIL KSHETARPAL)

JUDGE