

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

**201**

**CRM-M-6668-2021**

**Date of Decision: 19.04.2021**

**Rajesh Kumar**

**..... Petitioner**

**Vs**

**State of Haryana**

**..... Respondent**

**CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present:- Mr.S.S.Duhan, Advocate  
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

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**RAJ MOHAN SINGH, J.(Oral)**

The case has been taken up for hearing through video-conferencing.

Petitioner has filed present petition for quashing of FIR No.512 dated 22.10.2020 registered under Section 174-A IPC, at Police Station Tosham, District Bhiwani and all subsequent proceedings arising therefrom, including the order dated 25.11.2014 passed by the Chief Judicial Magistrate, Bhiwani vide which petitioner was declared proclaimed person.

Learned counsel for the petitioner submits that FIR No. 203 was registered on 12.06.2010 under Sections 147, 148, 149, 332, 353, 186 and 188 IPC, Section 3/3/84 of Prevention of

Damage to Public Property Act, 1984 and Section 187 of Panchayati Raj Act, 1994 at Police Station Tosham, District Bhiwani. In the said case, challan was presented by the prosecution without making any arrest of any accused persons. Since the occurrence arose in connection of Panchayat Elections and being a political affair of the parties faction, none of the accused could be arrested under the threat of some ruckus and final report was submitted under Section 173 Cr.P.C. against the petitioner and others in the Court and thereafter order dated 24.09.2014 came to be passed by Chief Judicial Magistrate, Bhiwani. It was observed that the presence of accused persons could not be secured by normal process and proclamation under Section 82 Cr.P.C. was ordered to be issued for 25.11.2014. Notices were also issued to the sureties under Section 446 Cr.P.C. Serving official appeared in the Court and submitted reports Exs. P1 to P24 in respect of publication of proclamations on 22.10.2014 against the accused persons including the petitioner. The date i.e. 25.11.2014 for which the case was adjourned vide order dated 24.09.2014 remained the same and the Court passed the order on 25.11.2014 itself, thereby proceedings against the petitioner and others in terms of Section 82 Cr.P.C. Learned counsel for the petitioner further submits that once the accused persons were not arrested at the time of filing of challan in the Court, it was obligatory on the part

of prosecution to serve personal notices to the accused persons. Petitioner was juvenile at the time of occurrence dated 12.06.2010 when FIR No.203 was registered. The petitioner fell in the definition of child in conflict with law being less than 18 years of age at the time of registration of FIR No.203 dated 12.06.2010 under the provisions of IPC, Prevention of Damage to Public Property Act, 1984 and under Section 187 of Panchayati Raj Act, 1994. Under Chapter III of Juvenile Justice (Care and Protection of Children) Model Rules, 2016, the procedure has been prescribed in relation to child in conflict with law. Under Rule 8(1) no FIR shall be registered except where a heinous offence is alleged to have been committed by a child and in other matters, the special juvenile police unit or Child Welfare Police Officer shall record the information regarding the alleged commission of offence by the child in General Daily Diary followed by a social background report of the child in prescribed Form 1 and also to record circumstances in which the child in conflict with law was apprehended. Such report has to be forwarded to the Board before the first hearing. According to learned counsel for the petitioner, mandatory Rule 8 of Chapter III of Model Rules of 2016 has been violated even before lodging of FIR against child in conflict with law. Since the punishment prescribed under the offences in question is less than 7 years, therefore, none of the offences fall under the

definition of heinous crime as defined under Section 2(33) of the Juvenile Justice (Care and Protection of Children) Act, 2015, therefore, mandatory compliance of Rule 8 of Model Rules, 2016 should have been made by the prosecuting agency.

Perusal of the facts on record also indicate that since the lodging of FIR No.203 on 12.06.2010, petitioner was not aware about his alleged involvement in the FIR as none of the accused was arrested by the police. Since the petitioner has been declared as proclaimed person under Section 174-A IPC vide FIR No.512 dated 22.10.2020 registered at Police Station Tosham, District Bhiwani, therefore, lodging of FIR in view of the facts and circumstances of the case would not be in the interest of child in conflict with law.

Learned State counsel, however, opposed the petition on the ground that proclamation was lawfully done on 22.10.2014 and the date already fixed as 25.11.2014 vide order dated 24.09.2014 would suffice to serve requirement of law under Section 82 of Cr.P.C.

Having considered the submissions in the light of facts on record, I deem it appropriate to quash the FIR No.512 dated 22.10.2020 registered under Section 174-A IPC, at Police Station Tosham, District Bhiwani and order dated 25.11.2014 passed by the Chief Judicial Magistrate, Bhiwani qua the petitioner as the same are not in consonance with the ratio of

**Ashok Kumar vs. State of Haryana and another, 2013(4)**

**RCR (Criminal), 550** and also in view of mandatory requirement of Rule 8 Chapter III of Juvenile Justice (Care and Protection of Children) Model Rules, 2016.

Disposed of.

**(RAJ MOHAN SINGH)**  
**JUDGE**

19.04.2021

Anju

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No