

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

CRM-M-9964-2021

Date of decision:-3.3.2021

Suresh Sharma and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.B.S. Jaswal, Advocate
for the petitioners.

H.S. MADAAN, J.(ORAL)

Case taken up through video conferencing.

This petition under Section 482 Cr.P.C. has been filed by petitioners – Suresh Sharma and Amit Bhandari for quashing of the order dated 19.1.2019, vide which they had been declared as proclaimed persons by the Court of Judicial Magistrate Ist Class, Faridabad in case FIR No.396 dated 19.7.2017, under Sections 120-B, 406, 420 IPC, registered at Police Station Faridabad Kotwali, District Faridabad.

At the very outset, it may be said that petitioners are proclaimed persons. They cannot file the petition and challenge the order declaring them as proclaimed persons in such a manner. Whatever faults they are trying to find out with the order declaring them as proclaimed persons should be brought to the notice of the Court, which had declared them proclaimed persons so as to get the order set aside and get bail therefrom. This tendency to approach the High Court

directly without going to the trial Court first is not proper.

In *Mehnga Singh Versus State of Punjab, 2002(2) R.C.R.(Criminal) 501*, a judgment by this Court, it has been observed that when an accused has been declared as proclaimed offender, a petition against the order under Section 482 Cr.P.C. is not maintainable and that the accused should first move the Court which declared him proclaimed offender and even an objection against validity of proclamation is required to be raised in the first instance before the Court which issued the proclamation and that power under Section 482 Cr.P.C. is not to be exercised in favour of a person, who is absconding or avoiding service.

I find that no ground is there to quash the order declaring the petitioners as proclaimed persons. In terms of the ratio of the authority *State of Madhya Pradesh Versus Pradeep Sharma, 2014(1) R.C.R.(Criminal) 269*, when an accused had absconded and declared as a proclaimed offender in terms of Section 82 Cr.P.C., he is not entitled to pre arrest bail. Here the accused have been declared as proclaimed persons but admittedly they have not surrendered before the trial Court and have straightway filed this petition challenging the order declaring them as proclaimed persons, when there is no illegality and infirmity in the order.

The petition stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

3.3.2021
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No