

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

(Heard through VC)

CRM-M-12631 of 2021 (O&M)
Date of Decision: March 18, 2021

Tajinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Jigyasa Tanwar, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. praying for setting aside the order dated 23.01.2020 passed by the JMIC, Ludhiana vide which the petitioner has been declared to be a proclaimed person in FIR No.70 dated 22.08.2017, registered under Sections 406, 498-A of Indian Penal Code, at Police Station Women Cell, Police Commissionerate Ludhiana.

Ms. Jigyasa Tanwar, counsel appearing on behalf of the petitioner herein would contend that the petitioner herein seeks to challenge the order dated 23.01.2020, whereby the petitioner, who is the brother-in-law of the complainant, has been declared as proclaimed offender, on the ground that the petitioner was never served. It is contended that the FIR was registered as far back as 22.08.2017, in which the petitioner was not

named. In the FIR, legal action was sought to be taken against husband Amandeep Singh, mother-in-law Balwinder Kaur, father-in-law Mohan Singh and another brother-in-law (Devar) Gurpreet Singh. Further, in the statement recorded under Section 161 Cr.P.C. there was no specific allegation as raised against the petitioner, consequently, when the challan was presented, the petitioner was not nominated as an accused therein. The petitioner then left for Portugal on 24.04.2019 and was not available in India when an application under Section 319 Cr.P.C. was moved and allowed by the JMIC, Ludhiana, summoning him as an accused by an order dated 04.05.2019. It is contended that the petitioner was not in India and, therefore, could not put in an appearance in proceedings that were initiated under Section 319 Cr.P.C. summoning him as an accused. Counsel for the petitioner herein would contend that the petitioner is ready to come back, move the application for setting aside the order and face the trial.

Notice of motion.

At this stage, Ms. Bhavna Gupta, DAG Punjab, who is appearing through the medium of video conferencing, accepts notice on behalf of the respondent-State and would submit that Visa that was issued to the petitioner herein was only for a limited period of one month as would be evident from Annexure P-5, and therefore, he cannot avail of the argument that he was not in India when the impugned order was passed.

I have heard counsel for the parties and have perused the pleadings of the case.

Admittedly, the complainant and the brother of the petitioner herein had been referred to the Mediation and Conciliation Centre of this

court in a separate petition, so as to try and see whether the dispute could be resolved amicably. As per the pleadings, which have been affirmed by way of an affidavit, the complainant and her husband are residing together as on date. Be that as it may, since the petitioner is ready to join the proceedings before the trial court wherein, he has been declared as a proclaimed offender, it would be appropriate to stay the arrest of the petitioner for a period of four weeks, in order to enable him to surrender before the trial court and move an appropriate application for setting aside the said order. Therefore, the instant petition is being disposed of with a direction that arrest of the petitioner shall remain stayed for a period of four weeks from today and in case, he surrenders before the trial court within the stipulated period, he shall be admitted to bail by the trial court on his furnishing the adequate personal bond and surety bond to its satisfaction. The petitioner is also directed to move an application for recalling of the order declaring him as proclaimed offender and to explain the circumstances for remaining absent from the trial and that application shall be considered and disposed of by the trial court within a period of two weeks in accordance with law.

The petition stands disposed of with the aforesaid directions.

Needless to say, in case, the petitioner fails to surrender before the trial court as directed, within the stipulated period, the interim relief granted will cease to exist.

March 18, 2021

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes/No