

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

CRM-M-39033-2021

Date of decision: 21.09.2021

Mubarik

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: - HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Chanderhas Yadav, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J.(Oral)

The present petition has been filed under Section 482 Cr.P.C with a prayer for setting aside the order dated 09.02.2008 (Annexure P-6) vide which the petitioner was declared as a proclaimed offender.

Learned counsel for the petitioner has submitted that it is the case where an FIR was registered on 19.06.2006 against unknown persons on the allegations that the accused persons were carrying cows in transport vehicle and, as per the allegations, when they were stopped, they tried to run over the police officials after breaking the barricade and ran away with the vehicle and the persons sitting on the backside with cows pelted stones at the police team and later on they abandoned the vehicle and ran away. After a period of 06 months from the incident, the police arrested one Amin Khan who got recorded his disclosure statement in which he stated that one

Mubarik son of Deen Mohammad (present petitioner) was a driver of the vehicle in question and the aforesaid Amin Khan was only owner of that vehicle. Thereafter, the aforesaid Amin Khan faced trial and was acquitted by the learned trial Court on 13.03.2009 vide Annexure P-5. Since the petitioner was never arrested, he was declared as a proclaimed offender vide Annexure P-6 on 09.02.2008.

The learned counsel for the petitioner has submitted that the involvement of the petitioner on the basis of the disclosure statement was improper particularly in view of the fact that at the time of alleged incident, he was hardly of the age of 13 years and there was no question of him driving the vehicle and that too a transport vehicle. He has submitted that the petitioner was not involved in the present case and it was not within the knowledge of the petitioner that proclamation proceedings have been initiated against him for which he has been declared as a proclaimed offender and, therefore, he has prayed for quashing of the order declaring him as a proclaimed offender vide Annexure P-6. He also submitted an application to the Superintendent of Police, Jhajjar for inquiring into the matter vide Annexure P-16 on 05.04.2021 but no action was taken by the police in this regard.

I have heard learned counsel for the petitioner.

The petitioner in the present case has challenged the order declaring him to be a proclaimed offender on 09.02.2008, which is more than 13 years ago. Neither any justifiable ground has been taken in the petition nor the learned counsel for the petitioner has submitted as to how the impugned order of declaring the petitioner as a proclaimed offender is

illegal or perverse. However, the entire case of the petitioner is based upon the merits of the case while stating that the petitioner was not involved in the offence. In the absence of any justifiable grounds to challenge the legality of the impugned order declaring him as a proclaimed offender, the same cannot be nullified merely on the ground that the co-accused has been since acquitted or that the petitioner now comes to this Court after 13 years and submits that he was not involved in the case because it was not properly investigated by the police. It was rather the duty of the petitioner to have surrendered before the Court after coming to know that he has been declared as a proclaimed offender. The legality of the aforesaid proclamation cannot be challenged on the merits of the main case as to whether the petitioner is innocent or not. Furthermore, the present petition has been filed after a period of 13 years and no justifiable ground has been submitted by the learned counsel for the petitioner in this regard. So far as the prayer of the petitioner with regard to seeking proper investigation of the case is concerned, the petitioner can always file appropriate application before the appropriate forum after surrendering himself before the court of law.

The present petition is devoid of any merit and consequently, the same is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

21.09.2021

rakesh

whether speaking	:	Yes/no
whether reportable	:	Yes/no