

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 47728 of 2021
Date of Decision: 16.11.2021**

Mandeep Sharma

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Jimmy Singla, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

(Through video conferencing)

1. Through the instant petition, challenge is cast to the order made on 20.8.2019, by the learned Judicial Magistrate Ist Class, Sunam.
2. Through the afore order, the learned Magistrate drew recourse to the mandate of Section 83 Cr.P.C., and, after declaring him a proclaimed offender, proceeded to issue warrants of attachment of the property of the petitioner herein.
3. The impugned order (supra), was made on account of non-appearance of the petitioner before the learned trial Magistrate. Believing the statement, made at bar by the learned counsel for the petitioner, that prior to the making of the impugned order, there had been repeated personal appearances of the petitioner, before the learned trial Magistrate, and also, that only on three occasions, the petitioner, on account of his serious ailment, hence could not appear before the learned trial Magistrate, whereupon the impugned order has been drawn against him. Therefore, the

afore non-appearances may not have been a good and valid reason for the learned trial Magistrate, to make the impugned order. Obviously it appears that the learned Magistrate has acted in a posthaste manner, to conclude, that the petitioner is wilfully evading the process of law.

4. Be that as it may, since the learned counsel for the petitioner assures this Court, that the latter shall surrender before the learned trial Magistrate. Therefore, the impugned order is quashed and set aside. However, a mandate is passed upon the petitioner, to ensure his surrendering before the learned trial Magistrate on 18.11.2021. Nonetheless, from today, and, upto his making his surrender before the learned trial Magistrate, no coercive action be taken against the petitioner, and, if any non-bailable warrants of arrest, are issued against him, they may be not executed, or if in the process of being issued, they be not issued.

5. On the petitioner making his personal appearance, before the learned trial Magistrate, on date (supra), the learned Magistrate concerned shall make valid orders, on any application as becomes moved before him. In addition, since it is stated at bar by the learned counsel, for the petitioner, that the learned trial Court, has viz-a-viz other co-accused, hence made an order of acquittal, in respect of the apposite FIR, thereupon the learned trial Court is directed to take recourse to the provisions of Section 299 Cr.P.C., and, open trial qua the petitioner.

Disposed of.

(SURESHWAR THAKUR)
JUDGE

November 16, 2021

Gurpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No