

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

(118)

CRM-M-50611-2021.
Date of Decision:-03.12.2021.

Daljit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Athar Ahmed, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is the first petition under Section 482 of the Cr.P.C. for quashing of order 25.02.2006 (Annexure P-3) declaring the petitioner as proclaimed offender and all subsequent proceedings arising out of FIR No.66 dated 02.12.2004 under Sections 406 and 420 of IPC, registered at Police Station Mulepur, District Fatehgarh Sahib.

Learned counsel for the petitioner has submitted that even prior to the registration of FIR, the petitioner has been residing abroad inasmuch as the petitioner had left India in June, 1996 and had gone to Germany on study visa and thereafter had moved to Slovakia and got married to a Slovakian national and from December, 1999 till the year 2005, the petitioner had resided in Slovakia and thereafter had moved to U.K. in 2007 on work visa. Reference has been made to Annexure P-4 which is the work permit dated 12.07.2006 issued by the British Government, in which it has been mentioned that the petitioner is a citizen of Slovakia. It is submitted that the petitioner is now a British citizen as is

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apparent from the Passport (Annexure P-9). It is submitted that the FIR was registered in his absence and behind the petitioner's back. It is further submitted that the proceedings in the FIR had continued against the other two accused and the said two accused had been acquitted vide judgment dated 04.05.2007 (Annexure P-2) and reference has been made to the said judgment to show that in fact all the complainants/star witnesses i.e. PW1, PW2, PW3 and PW4 had turned hostile and had not supported the case of the prosecution and had submitted that in fact the complaint was not made by them and they had only signed blank papers and they had also stated that they had not met the present petitioner. Further reference has been made to various orders as well as the statement dated 11.10.2005 (Annexure P-6) which is the statement of the Head Constable Mohan Singh vide which, it was found that the petitioner was abroad. It is argued that in spite of the above fact that the petitioner was abroad, proceedings under Section 82 were initiated and the petitioner was declared proclaimed offender vide order dated 25.02.2006, behind his back. It is further submitted that since the offences are under Sections 406 and 420 of IPC, thus, the petitioner could not have been declared as proclaimed offender as per the provisions of Section 82 (4) of Cr.P.C. and at best, could have been declared as proclaimed person. It is submitted that in case the impugned order is set aside, the petitioner undertakes to come to India within a period of one month from today and would also join the proceedings.

Learned State counsel has opposed the present petition and has submitted that due procedure had been followed before declaring the petitioner as proclaimed offender and has stated that the FIR is of the year 2004 and there is substantial delay in filing the present petition.

This Court has heard the learned counsel for the parties and has perused the paper-book.

A perusal of the paper-book would show that initially the petitioner was a Slovakian citizen and now is a British citizen and has also married a

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Slovakian national and has been residing abroad even, prior to the registration of the FIR and at any rate, prior to the passing of the impugned order dated 25.02.2006 vide which the petitioner was declared as proclaimed offender. A perusal of the statement dated 11.10.2005 (Annexure P-6) of the Head Constable Mohan Singh would show that it has been found that the petitioner was residing abroad yet no due procedure was initiated to serve the petitioner at the place where he was residing. The petitioner was, thus, illegally declared as proclaimed offender. A further perusal of the judgment dated 04.05.2007 would also show that the star witnesses PW1 to PW4 have not supported the case of the prosecution and in fact, have stated that the signatures were taken on blank papers.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the order dated 25.02.2006 (Annexure P-3) is set aside subject to the petitioner appearing before the Illaqa Magistrate/Duty Magistrate within a period of one month from today. On such appearance, the petitioner would be released on bail subject to the satisfaction of the Investigating/Arresting Officer.

(VIKAS BAHL)
JUDGE

December 03, 2021.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes/No

Yes/No