

**129 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
(Through Video Conferencing)**

**CRM-M-5794-2022
Date of decision: 11.02.2022**

Kamaljit VirkPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kamaljit Singh Dhillon, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking quashing of order dated 20.01.2016 (Annexure P-4) passed by JMIC, Jalandhar vide which he was declared a proclaimed offender in FIR No.48 dated 22.07.2019 under Sections 406 and 498-A IPC registered at Police Station Women Cell, Jalandhar City, District Jalandhar.

Learned counsel for the petitioner contends that the petitioner had been residing and working in Dubai since the year 2013. He came to India only on 07.04.2015 and returned soon thereafter to Dubai on 20.04.2015. He further submits that it was as recently as on 26.08.2021 on coming to India, he learnt about the registration of the FIR in question against him. Learned counsel submits that it was a case of false implication, which finds credence from the fact that co-accused, Baldev Raj and Usha Rani were acquitted by the trial Court vide judgment and order dated 06.08.2019 (Annexure P-3). Learned counsel for the petitioner further submits that the trial court fell into error while declaring the petitioner as a proclaimed offender even though he was not an accused of any of the offences, which find mentioned in Section

82(4) Cr.PC.

I have learned counsel and perused the impugned order as well as all other material available on record.

At the outset, this Court finds it very strange and hard to digest that the petitioner would not have had any knowledge much less inkling about the registration of the FIR in question, more so, when the co-accused, Baldev Raj and Usha Rani, who admittedly faced trial in the FIR in question, were none other than his own parents. It is very obvious that once the co-accused i.e. his parents were acquitted by the trial Court on 06.08.2019, the petitioner, for reasons but obvious, chose to show his face and approach this Court seeking quashing of the order declaring him as a proclaimed offender.

Coming to the next contention of the learned counsel that the petitioner could not have been declared as a proclaimed offender since he was not an accused of any of the offences mentioned in Section 82(4) Cr.PC, this Court is of the view that the above contention of the learned counsel is without any force.

It is a matter of record that the petitioner was declared a proclaimed offender after due compliance of the provisions of sub sections 1 & 2 of Sections 82 Cr.PC. Still further, it is amply clear that Section 82(4) Cr.PC cannot be construed to mean that absconders not accused of offences mentioned under Section 82(4) Cr.PC cannot be declared as proclaimed offender. Moreover, the declaration of an absconder as a proclaimed offender, whether made under Section 82(1) or 82(4) Cr.PC attracts similar liabilities except for the punishment provided under Section 174-A IPC, which is different for both. An

absconder, who is accused of any of the offences mentioned in Section 82(4) Cr.PC and has been declared a proclaimed offender, can be convicted and sentenced under the second part of Section 174-A IPC for a maximum period of 7 years whereas an absconder, accused of offences other than those mentioned in Section 82(4) Cr.PC, can be convicted and sentenced only under the first part of Section 174-A IPC for a maximum period of 3 years, irrespective of the fact, whether he was declared a proclaimed offender or not.

It would be for the Court concerned, which would try an absconder, for an offence under Section 174-A IPC, to determine whether he/she is an accused of the offences specified under Section 82(4) Cr.PC or not and then sentence him/her accordingly under first or second part of Section 174-A IPC, as the case maybe, if found guilty. Therefore, the declaration of the petitioner as proclaimed offender would not in any manner vitiate the proclamation proceedings.

In view of the above discussion made, the present petition stands dismissed.

11.02.2022
sonia

(MANJARI NEHRU KAUL)
JUDGE

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