

CRM-M-22188-2018 (O&M) and
CRM-M-22227-2018 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 23.03.2022

1. CRM-M-22188-2018 (O&M)

Gaurav

.. Petitioner

Vs.

State of Punjab

..Respondent

AND

2. CRM-M-22227-2018 (O&M)

Gaurav

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rahul Rampal, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

...

Manoj Bajaj, J. (Oral)

By way of above separate petitions, the petitioner has challenged the orders dated 02.01.2015 (Annexure P-3) and 02.05.2017 (Annexure P-4) respectively, whereby the trial Court declared him proclaimed offender in case FIR No.10 dated 08.03.2014, under Sections 420/120-B IPC, at Police Station Daresi, District Ludhiana (Annexure P-1).

Learned counsel for the petitioner has argued that the FIR was registered in the year 2014, but prior to the registration of this case, the petitioner had left India on 11.09.2013 and since, he was not effectively served, the impugned orders are not legally sustainable. He submits that initially the petitioner was declared proclaimed offender on 02.01.2015, but

somehow the trial Court again summoned him as an additional accused by exercising the powers under Section 319 Cr.P.C. and pursuant to that again on 02.05.2017, he was declared as proclaimed offender. Learned counsel has drawn the attention of the Court to the order dated 23.05.2018 and submitted that while staying the operation of the impugned orders, the court had granted the liberty to the petitioner to seek the concession of anticipatory bail and pursuant to that, his prayer was accepted by the Addl. Sessions Judge, Ludhiana vide order dated 08.06.2018. He has produced the copy of the said order, whereby the petitioner was directed to surrender before the trial Court within a period of seven days. He submits that the said order was also complied with and ever since then, the petitioner is regularly attending the trial proceedings. He prays for quashing of orders dated 02.01.2015 (Annexure P-3) and 02.05.2017 (Annexure P-4).

Learned State counsel, who is assisted by ASI Prem, refers to the reply by way of affidavit of Waryam Singh, PPS, Assistant Commissioner of Police (Central), Ludhiana and submits that the efforts by the trial Court to secure the presence of the petitioner proved futile, as the petitioner did not appear before the Court, therefore, after following the proper procedure, he was rightly declared as proclaimed offender. However, it is not disputed by him that pursuant to the order dated 23.05.2018, the petitioner was granted the concession of bail and since then, he is appearing before the Court. Learned State counsel is unable to refute the stand of the petitioner that much prior to the registration of the case, the petitioner had left India, as the said pleading contained in para 3 of the petition is not controverted in the reply.

considering the above background, this Court finds that after declaration of the petitioner as proclaimed offender, he has joined the trial proceedings and also the proceedings previously initiated by trial Court under Section 82 Cr.P.C. do not indicate that the petitioner was actually served effectively, therefore, the orders are not sustainable.

Resultantly, the petitions are allowed and orders dated 02.01.2015 (Annexure P-3) and 2.05.2017 (Annexure P-4) are quashed.

23.03.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No