

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

134

CRM-M-17762-2022 (O &M)
Date of Decision: 18.07.2022

JATINDER BIR SINGH

....PETITIONER

Versus

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Jasdeep Singh Gill, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab
for the respondent-State.

SURESHWAR THAKUR, J. (ORAL)

CRM-17668-2022

The instant application filed seeking permission to place on record true typed copies of order dated 13.11.2006, order dated 01.02.2007, and, true translated copy of supplementary report under Section 173 Cr.P.C., respectively, carried in Annexures P-7 to P-9.

For the good reasons, recorded in the application, the same is allowed, subject to all just exceptions.

Main case

1. Through the instant petition, a challenge has been cast to the impugned order made by learned Judicial Magistrate First Class, Gurdaspur,

wherethrough, given the factum of despite 30 days elapsing, since the making of a purported service of proclamation notice, upon, the petitioner, he proceeded to declare him a proclaimed offender. Moreover, he is also made a direction that an intimation to that effect be given to the official in-charge, Police Station, Dhariwal.

2. However, prior to the making of the impugned order, the learned trial Judge concerned, had strived to cause service of summons upon the present petitioner, but it was reported to him, by the serving constable, that at the relevant time, the accused was not residing in India.

3. Though, subsequently, the learned trial Judge concerned, was to ensure that valid service, through an ordinary process, and, through the Embassy of India existing in the country concerned, where the present petitioner was residing, rather becomes effected, upon, the petitioner, but yet the learned trial judge concerned, proceeded to make the impugned order.

4. Though, dependence was placed by the learned trial Magistrate, upon the report of the serving constable, but a reading of the report of the serving constable, reveals that even when he attempted, to serve the proclamation notice, upon the present petitioner, then also, the accused was not residing in the country, but was residing outside India. Therefore, no valid service of the proclamation notice, could, ever be concluded, to be made upon the petitioner, nor, also, the impugned order could withstand the mandate of law.

5. In consequence, there is merit in the petition, and, the impugned order is quashed, and, set aside. However, the petitioner is

directed to forthwith make his appearance before the learned trial Magistrate concerned, and, upon his making, or, causing his appearance before the learned Magistrate concerned, the latter may proceed, to, in accordance with law, make appropriate order thereons.

6. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

18.07.2022
kavneet singh

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