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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21827-2021 (O&M)

Date of Decision: 16.03.2022

Grudhian Singh

....Petitioner(s)

Versus

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Munish Puri, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. Surender Gandhi, Advocate, for respondent No.2.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

CRM-89-2022

The present application has been filed for placing on record copy of order passed by the learned trial Court dated 03.09.2021 as Annexure P-6.

For the reasons mentioned in the application, the same is allowed and copy of order dated 03.09.2021 is taken on record as Annexure P-6 subject to just exceptions.

Main case

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of order dated 10.03.2014

(Annexure P-2) vide which the petitioner has been declared as absconder in case FIR No.75 dated 20.02.2003, under Sections 420 and 506 IPC, registered at Police Station Kotwali, District Bathinda.

It has been submitted by the learned counsel for the petitioner that the impugned order Annexure P-2 was contrary to the provisions of Section 82 of the Code of Criminal Procedure and has submitted that even a bare reading of the impugned order would show that the proclamation order was effected on 15.02.2014 and he was declared as an absconder by the Court on 10.03.2014 which is less than 30 days of statutory period. He further relied upon the judgments of this Court in Ashok Kumar Versus State of Haryana 2013(4) RCR (Criminal) 550 and Shokat Ali Versus State of Haryana, CRM-M-64796-2018 to contend that the order Annexure P-2 vide which the petitioner has been declared as an absconder cannot be sustained in the eyes of law. He further submitted that apart from the same initially the petitioner was not named in the FIR and the other accused have been named in the FIR, who have been declared as innocent by the police.

The learned counsel for the petitioner has submitted that in pursuance of the orders passed by this Court on 27.08.2021 the petitioner has appeared before the learned trial Court vide Annexure P-6 on 03.09.2021.

Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab as well as Mr. Surender Gandhi, learned counsel for the complainant have stated that it is correct that in pursuance of the orders passed by this Court vide Annexure P-6 the petitioner has appeared before the learned trial Court. Mr. Gandhi has however stated that the order was passed in the year 2014, the same may not be set aside.

I have heard the learned counsel for the parties.

In pursuance of the orders passed by this Court the petitioner has already appeared before the learned trial Court vide Annexure P-6. So far as the challenge to the order passed by the learned trial Court vide Annexure P-2 is concerned, a perusal of the order would show that the proclamation was effected on 14.02.2014 and the order declaring him as an absconder was passed on 10.03.2014 and, therefore, the period of 30 days was not exhausted and, therefore, on the face of it, it appears to be contrary to the provisions of the Act. Reliance has been made by the learned counsel for the petitioner on the aforesaid two judgments in which it has been held that when 30 days period notice is not given, then the order of proclamation is liable to be set aside.

In view of the above, the present petition is allowed and the impugned order dated 10.03.2014 (Annexure P-2) is hereby set aside.

16.03.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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