

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.206

CRM-M-17413-2020

Date of decision: 18.04.2022

Naresh Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Gautam Kaile, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

* * *

DEEPAK SIBAL, J. (Oral)

Through the present petition filed under Section 482 Cr.P.C., the petitioner seeks quashing of order dated 16.03.2019 passed by the Judicial Magistrate, Ist Class, Yamuna Nagar (for short – the Trial Court) through which the petitioner was declared a proclaimed person.

The facts, in brief, which need to be noticed for adjudicating upon the present petition are that on 26.06.2018, on the complaint filed by the petitioner's wife, the aforesaid FIR was registered against him. The police investigated the matter and filed a report under Section 173 Cr.P.C. on the basis whereof the petitioner has been charged to face trial under Sections 323, 354, 406, 498-A and 506 IPC. In the meanwhile, since the petitioner did not cause appearance before the Trial Court as also did not respond to the proclamation issue under Section 82 Cr.P.C., through order dated 16.03.2019 passed by the Trial Court, he was declared a proclaimed person. Such order by the Magistrate is under challenge through the present petition.

Learned counsel for the petitioner submits that the FIR in question was lodged on 26.06.2018 and prior to the same i.e. on 23.03.2018, he had left for Dubai and returned to India on 12.11.2019 i.e. after the passing of the impugned order on 16.03.2019. Therefore, the impugned order was passed without service of any notice to the petitioner and is thus in violation of the procedure prescribed under Section 82 Cr.P.C.

The above factual position is not denied by the learned State counsel.

In the light of the above factual position, it is clear that before declaring the petitioner to be a proclaimed offender he was neither served nor any proclamation was done in any conspicuous place of the town or village in which he ordinarily resided. Therefore, his declaration as a proclaimed offender was in violation of the procedure prescribed under Section 82(2)(i)(a) Cr.P.C. Resultantly, the impugned order dated 16.03.2019 being illegal is quashed.

The present petition is allowed in the above terms.

April 18, 2022
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No