

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-19357-2020
Reserved on: 08.08.2022
Pronounced on: August 23, 2022

Nirvair SinghPetitioner

Vs.

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vishav Bahl, Advocate for the petitioner

Mr. Harsimar Singh Sitta, AAG, Punjab.

ANOOP CHITKARA J.

Criminal Complaint	400/2019 dated 02.09.2019 under sections 452, 326, 324, 323, 148 and 149 IPC, registered at Police Station B-Division, District Amritsar
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Seeking quashing of proclamation order Annexure P-1, the accused has come up before this court under Section 482 of the Code of Criminal Procedure, 1973 (CrPC).

2. Petitioner was arraigned as an accused in the above captioned matter. On failure to serve the petitioner through the ordinary process, including summons, bailable warrants, and even non-bailable warrants, the concerned court finally proceeded against the petitioner under section 82 of CrPC and declared the petitioner a proclaimed offender vide order dated 8-12-2016.
3. The point to which the petitioner wants to draw the attention of this court is that the absence was not willful, because the petitioner was in Hongkong and he has annexed the copies of the Visa to substantiate the same. The State could not dispute the factual matrix till date.
4. Given the above, the petitioner has made a case on the preponderance of probability that neither any sincere attempt was made to execute the warrants nor did the petitioner have any knowledge about appearance as contemplated under section 82 CrPC. Thus, the order is arbitrary and did not afford reasonable opportunity as mandated under Section 82 of CrPC.
5. Consequently, the impugned order of proclamation dated 8-12-2016, passed by the

concerned JMIC, Annexure P-1, is set aside. Resultantly, the non-bailable warrants issued against the petitioner in the FIR captioned above, shall not be enforced. The petitioner is directed to continue attending the trial without any default.

Petition allowed in the terms mentioned above.

(ANOOP CHITKARA)
JUDGE

August 23, 2022
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Whether speaking/reasoned: Yes
Whether reportable: **No.**