

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.244

CRM-M-38702-2020

Date of decision: 22.07.2022

Harpreet Singh Grover

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Kamaldeep S. Sidhu, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Amrit Singh, Advocate
for respondent No.2.

* * *

DEEPAK SIBAL, J. (Oral)

Through the present petition filed under Section 482 Cr.P.C., the petitioner seeks quashing of order dated 28.09.2012 passed by the Judicial Magistrate, Ist Class, Jalandhar (for short – the Trial Court) through which he was declared a proclaimed person in FIR No.113 dated 27.07.2010 registered under Sections 498-A and 406 IPC at Police Station Rama Mandi, District Jalandhar.

Respondent No.2 filed a complaint with the police as per which, after she had got married to the petitioner, she had been treated with cruelty by the petitioner and his family members. She further alleged giving of beatings to her by the petitioner as also repeated demands for dowry by him and his family members.

On the basis of the afore complaint, the police registered an FIR against the petitioner and his family members under Sections 498-A and 406 IPC. During the course of investigation, the petitioner was found absconding and accordingly proceedings were initiated against him by the State to declare him a proclaimed person. Such proceedings culminated in passing of the impugned order dated 28.09.2012 which is under challenge through the instant proceedings.

Learned counsel for the petitioner contends that on 30.04.2009, the petitioner left India for Canada; thereafter, he came to India only in the year 2021; the fact that the petitioner left for Canada on 30.04.2009 and remained there till the year 2021 has been acknowledged by the State in the status report filed before this Court; thus, before passing of the impugned order on 25.09.2012 the petitioner was never served personally or through proclamation and that there is no evidence whatsoever that he was even made aware of the pendency of the proceedings initiated by the complainant.

It is further submitted by learned counsel for the petitioner that the impugned order was passed in the course of proceedings launched against the petitioner after registration of an FIR at the instance of respondent No.2. Such FIR originated from a matrimonial dispute between the petitioner and respondent No.2 which stands settled and therefore, on that ground too, the impugned order be quashed.

Learned State counsel does not dispute the factum of the petitioner not being in India from 30.04.2009 till the year 2021 but opposes the present petition by submitting that at the given place of residence of the petitioner in Ludhiana, the petitioner had been duly served by proclamation

as also by way of affixation and that in any case, it is hard to believe that the petitioner was not aware with regard to the pendency of the FIR registered against him.

Learned counsel for respondent No.2 (Complainant) submits that his client and the petitioner have amicably resolved their matrimonial disputes and therefore, he has no objection if the prayer made in the instant petition is allowed.

It is not disputed by the State as also the complainant that between the years 2009 and 2021, the petitioner was in Canada and that before declaring him to be a proclaimed person no efforts were made to serve him personally or through any proclamation/publication in Canada. There is further no evidence found on the record that during the afore period when the petitioner was in Canada he was made aware of the registration of the FIR in question against him.

Even in the “service” reports filed by the concerned police officers before the Trial Court on the basis whereof the Trial Court proceeded to declare the petitioner as a proclaimed person it has duly been acknowledged that the petitioner was not available even at the given address in Ludhiana.

A perusal of the FIR in question further reveals that in the same respondent No.2 had acknowledged the fact that the petitioner at that time residing in Canada. Thus, the investigating agency was aware of such fact but no efforts were made by them to serve him in Canada.

In view of the above, it is clear that before the impugned order was passed declaring the petitioner to be a proclaimed person he had not been served personally or through any proclamation, affixation or

publication. That being so, there is no hesitation with this Court to quash the impugned order especially in the peculiar facts of this case where the matrimonial dispute from which the impugned order emanates stands amicably resolved.

The petition is allowed in the above terms.

July 22, 2022
Jyoti 1

(DEEPAK SIBAL)
JUDGE

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