

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(114)

CRM-M-40421-2022

Date of decision: - 06.09.2022

Ravinder Kumar

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Lakhwinder S. Sidhu, Advocate
for the petitioner.

VIKAS BAHL, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 18.08.2021 (Annexure P-2), vide which the petitioner has been declared as proclaimed person by the Court of Chief Judicial Magistrate, Moga, passed in Complaint Case No.62 dated 09.07.2018, under Sections 3(k)(i), 17, 18, 29 and 33 of Insecticides Act, 1968 read with Rules 27(5) of Insecticides Rules, 1971 titled as "State of Punjab Vs. M/s Guru Nanak Kheti Store & others"

Learned counsel for the petitioner has submitted that in the present case, the petitioner was never duly served and one of the persons i.e., Sohan Singh (accused No.6) had filed a CRM-M-30440-2021 challenging the complaint and summoning order in the present case and in

the said case, a Co-ordinate Bench of this Court was pleased to issue notice of motion for 17.09.2021 and in the meantime, the trial Court was directed to adjourn the case beyond the date fixed by this Court. It is submitted that in spite of the said order, the trial Court on 18.08.2022 passed the impugned order declaring the present petitioner and one Sudhir Kumar Pathak as proclaimed persons. It is further submitted that the said Sudhir Kumar Pathak filed a petition for quashing of order dated 18.08.2021, in which, notice of motion was issued and the said person was directed to appear before the trial Court within a period of 15 days, subject to deposit of costs of Rs.20,000/- with the Punjab and Haryana High Court Lawyers' Welfare Association' and since the said Sudhir Kumar Pathak had deposited the costs of Rs.20,000/-, the order dated 18.08.2021 was set aside qua him. It is submitted that case of the petitioner is on a similar footing as that of said Sudhir Kumar Pathak and the present petitioner was also ready to appear before the trial Court within a period of 15 days from today.

Learned State counsel on the other hand has stated that the complaint in the present case is of the year 2018 and since the petitioner and co-accused Sudhir Kumar Pathak had not appeared, thus, the impugned order has been rightly passed. It is submitted that the order in the quashing petition was passed in the case of Sohan Singh and not in the case of the present petitioner and thus, the impugned order deserves to be upheld.

This Court has heard the learned counsel for the parties and has perused the paper-book.

The co-accused of the petitioner, namely, Sohan Singh (accused No.6) had filed a petition bearing CRM-M-30440-2021, in which, on 06.08.2021, a Co-ordinate Bench of this Court was pleased to pass the following order: -

"SOHAN SINGH V/S STATE OF PUNJAB

Present:- Mr. Rakesh Verma, Advocate
for the petitioner.

Counsel for the petitioner has relied upon the judgment "M/s. S.S. Fertilizer and another vs State of Punjab", 2017(2) RCR (Criminal) 59, to submit that the sample was drawn from the original packaging. It is further submitted that the sample was sent for examination after 05 days.

Notice of motion for 17.09.2021.

In the meantime, the trial Court is directed to adjourn the case beyond the date fixed before this Court.

To be heard along with CRM-M No.27387 of 2021.

(ARVIND SINGH SANGWAN)
JUDGE

06.08.2021"

The trial Court, on 18.08.2021, i.e., the date after the passing of the above-said order, declared the present petitioner as well as one Sudhir Kumar Pathak as proclaimed persons. The said Sudhir Kumar Pathak filed a petition bearing CRM-M-39556-2021, in which, a Co-ordinate Bench of this Court vide order dated 22.09.2021, after noticing the above-said facts, directed the petitioner therein to appear within a period of 15 days and subject to deposit of cost of Rs.20,000/- and after the same having been done, order dated 18.08.2021, qua the said Sudhir Kumar Pathak, had been set aside. The petitioner is also ready to appear before the trial Court within a period of 15 days.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the impugned order dated 18.08.2021 to the extent that the present petitioner has been declared as proclaimed person, is set aside, subject to the petitioner appearing before the trial Court within a period of 15 days from today and on his appearance, the trial Court is directed to release the petitioner on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court. The same would also be subject to the petitioner depositing an amount of Rs.20,000/- with the 'Punjab and Haryana High Court Lawyers's Welfare Association' and would also be subject to the petitioner giving an undertaking before the trial Court that he would appear before the trial Court on each and every date unless his personal appearance is specifically exempted by the Court.

It is, however, clarified that in case, the abovesaid conditions are not complied with within the stipulated time period, then the present petition would be deemed to have been dismissed.

September 06, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No