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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42429-2022

Date of decision : 16.09.2022

VARUN KUMAR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. L.S. Virk, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the impugned order dated 13.04.2018 (Annexure P-4) passed by the learned Judicial Magistrate, 1st Class, Dasuya, whereby the petitioner has been declared a proclaimed offender in complaint case No.13 dated 16.05.2014 (inadvertently mentioned case No.53 in the order dated 22.08.2019) registered under Sections 323, 324, 341, 342, 347, 506, 120-B IPC read with Section 34 of IPC, 1860, District Hoshiarpur (Annexure P-5) and all other consequent proceedings arising therefrom.

2. The brief facts of the case are that the petitioner is stated to be a resident of the United Kingdom (U.K) and serving in the British Army since 17.04.2011 and has a British passport. The copy of the

passport and the identity Card showing him to be in the British Army are attached as Annexures P-1 and P-2 to the petition.

3. An occurrence took place on 30.12.2013 leading to the filing of a criminal complaint by the complainant-Surinder Kumar son of Shri Dina Nath against Arun Kumar, Sharan Kumar and Varun Kumar (the present petitioner) all three of whom are stated to be brothers and sons of Satish Kumar under Sections 323, 324, 341, 342, 347, 506, 120-B read with Section 34 IPC. Based on the said complaint, a summoning order dated 12.05.2015 was passed by the Court of the learned Judicial Magistrate, 1st Class, Dasuya under Sections 323, 324, 342 and 506 read with Section 34 of the IPC.

4. The petitioner was declared a proclaimed offender by the Trial Court vide order dated 18.10.2017. He approached this Court and the Trial Court was directed to admit the petitioner on regular bail vide order dated 01.02.2018 passed in CRM-M-49871-2017. Accordingly, the petitioner appeared before the Trial Court and was admitted on bail vide order dated 03.02.2018.

5. The petitioner is again stated to have left India and went back to the United Kingdom (U.K.) on account of advice rendered that since this was not a police case therefore, he was not required to attend proceedings in the complaint case on each and every date and since he was a serving soldier, he had to otherwise go back to the United Kingdom (U.K.) to join duty.

6. As the petitioner did not appear in the Trial Court on 17.02.2018, he was declared a proclaimed offender vide impugned order

dated 13.04.2018 (Annexure P-4). It is this order which is under challenge before this Court.

7. The learned counsel for the petitioner contends that the impugned order is illegal and the mandatory provisions and requirements of Section 82 Cr.P.C. have not been complied with. He contends that in fact, the co-accused Sharan Kumar, one of his brothers was acquitted vide judgment dated 22.08.2018 (Annexure P-6). This fact itself showed that the allegations against the petitioner were vague and baseless and the petitioner was not present in the village on 30.12.2013 since he had reached England on 31.12.2013. It is thus contended that once his co-accused had been acquitted, the impugned order declaring the petitioner a proclaimed offender ought to be quashed and all proceedings emanating therefrom must also be quashed.

8. On the other hand, the learned State counsel contends that this is the second occasion on which the petitioner has been declared a proclaimed offender and no indulgence should be shown to him as his conduct does not entitle him to any sympathy whatsoever. He thus, prays that the present petition be dismissed.

9. I have heard the learned counsel for the parties at considerable length.

10. Keeping in view the facts as narrated hereinabove that the petitioner was a resident of the United Kingdom (U.K.), serving in the British Army and that one of his co-accused had been acquitted this Court was willing to stay the order whereby the petitioner had been declared a proclaimed offender enabling him to join proceedings and

face trial which was to be concluded within a fixed period of time not exceeding three months.

11. However, the learned counsel for the petitioner submitted that since the petitioner was a soldier of the British Army, therefore, he could not come back to face trial on account of pressing work concerns.

12. In view of the submissions made by the counsel for the petitioner as also the fact that the petitioner has been declared a proclaimed offender twice over, I find that the filing of the present petition is frivolous as even if I did quash the order declaring the petitioner a proclaimed offender, he would still not come back to face trial.

13. In view of the above, I find no merit in the present petition and therefore, the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

16.09.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No