

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M No.48191 of 2021 (O&M)
Date of Decision.03.02.2022
(Heard through VC)

Paramjit Singh ...Petitioner
Vs
State of Punjab and another ...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Mr. Rehat Bir Singh Maan, DAG, Punjab.

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JAISHREE THAKUR J. (ORAL)

Respondent No.2 has refused to receive the notice issued for today and none appeared on his behalf, despite affixation of notice.

This is a petition that has been filed for quashing of the impugned order dated 03.12.2021 passed by the SDJM, Nokodar whereby the petitioner has been declared as a proclaimed person in FIR No.49 dated 19.03.2011 registered under Sections 419, 420, 465, 468, 471, 120-B IPC and Section 12 of the Passport Act at Police Station Nakodar, District Jalandhar.

Counsel for the petitioner assails the said order by contending that the petitioner has been residing with his family in America since the year 2010 and has not come back since then. It is submitted that the FIR has been registered subsequent to his having gone abroad. It is also argued that the order dated 03.12.2011 as passed by the SDJM, Nakodar declaring the petitioner as a proclaimed person under the said FIR would not be sustainable, in view of the fact that proper service was not effected upon him. It is further argued that other co-accused, who were present in India, faced the trial and they have subsequently been acquitted by the SDJM, Nakodar on

11.09.2017.

Learned counsel appearing on behalf of the respondent-State would submit that the impugned order came to be passed on account of non-appearance of the petitioner herein.

I have heard learned counsel for the parties and have also perused the impugned order whereby the petitioner has been declared as a proclaimed person. It is not in dispute that the petitioner herein had left for America in the December, 2010 and is currently residing there. The FIR came to be registered on 19.03.2011 i.e. after a lapse of about three months on an allegation that the petitioner had gone abroad in an illegal manner on the basis of forged and fabricated documents. The trial court has acquitted other co-accused on the basis that the prosecution was not able to establish its case. In view of the fact that the petitioner herein was residing abroad and no effort had been made by the prosecution to serve him in America either through publication or through the Ministry of Home Affairs as is required vide Notification No.25016/52/2019-LC dated 04.12.2019, it is presumed that due service has not been effected upon him. Consequently, the instant petition stands allowed and the impugned order is set aside. However, arrest of the petitioner is stayed for a period of two weeks to enable him to put in appearance before the trial court. It is made clear that if the petitioner does not present himself before the trial court within the stipulated time, any interim protection granted to him will be deemed to have been automatically vacated.

(JAISHREE THAKUR)
JUDGE

February 03, 2022
Pankaj*

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