

CRM-M No. 50319 of 2022
Reserved on 16.11.2022
Pronounced on : 23.11.2022

Maneet Singh Sohal and othersPetitioners

Vs.

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. B.S. Aulakh, Advocte for the petitioner.

Mr. Aditya Kapoor, AAG, Punjab.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
95	17.10.2016	Division 6, Jalandhar, District Jalandhar	406 IPC

Seeking quashing of proclamation order dated 18.01.2020 Annexure P-5, 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,ailable warrants, and even non-ailable warrants, the concerned court finally proceeded against the petitioner under section 82 of CrPC and declared the petitioner a proclaimed offender vide order dated 18.01.2020.

3. In paragraph 3 of the petition, it is declared that the non-appearance was unintentional as they were not residing in India and due to non-receipt of summons and the moment he was aware of the case, he settled the matter with the complainant. Statement of the complainant qua the receipt of the payment has been annexed with this petition. Vide order dated 13.07.2022, this court accepted the compromise and quashed the FIR. The copy of the order has been placed with the petition as Annexure P-7. The point to which the petitioner wants to draw the attention of this court is that the absence was not willful, and was due to the factors beyond the petitioner’s control. The State could not dispute the factual matrix at this stage.

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 18.01.2020, passed by Id. CJM, Jalandhar, and all subsequent proceedings qua the petitioner in this matter is set aside.

Petition allowed in the terms mentioned above.

(ANOOP CHITKARA)
JUDGE

23.11.2022
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Whether speaking/reasoned: Yes
Whether reportable: **No.**