

CRM-M-49795 of 2022

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-49795 of 2022
Date of decision: 28.10.2022

Mosin

.....Petitioner

vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Munfaid Khan, Advocate, for the petitioner.
Mr. Himmat Singh, Deputy Advocate General, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for setting aside impugned order dated 11.08.2015 (Annexure P-8) passed by the Chief Judicial Magistrate, Karnal, in case FIR No.14 dated 04.01.2014 registered under Section 8 of the Punjab Cow Slaughter Act, 1955; Sections 148, 149, 307 IPC and Section 25, 25(54) of the Arms Act at Police Station Karnal City, District Karnal, whereby petitioner has been declared as proclaimed person.

Brief facts of the case are that in the intervening night of 3/4.1.2014 police party chased vehicle bearing registration No.HR-99QDT-9649 on the basis of secret information that it was smuggling cattle to Uttar Pradesh. The occupants of the vehicle pelted stones and also fired shorts at police party and taking advantage of darkness fled, leaving the truck loaded with cattle on the spot. From the statement of the registered owner of the said vehicle, it transpired that at the relevant time,

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it was driven by Sholu, who was accompanied by Basa, Kukka, Sadaam, Ikram and the petitioner. On 16.08.2014 co-accused Ikram was arrested. In his disclosure statement, he also revealed the fact of involvement of Sholu, Basa, Kukka, Sadaam and the petitioner. Since petitioner was not arrested, he has been declared proclaimed person vide impugned order dated 11.08.2015.

I have heard learned counsel for the petitioner as well as learned State counsel and perused the paperbook.

Perusal of file shows that petitioner is evading his arrest in the aforesaid FIR. Therefore, after following due procedure prescribed under the law, he has been declared proclaimed person by the trial Court vide impugned order. Moreover, impugned order was passed way back on 11.08.2015 and the petitioner has challenged the same through present petition after a period of more than seven years.

Furthermore, this tendency to approach the High Court directly without going to the trial Court first is not proper. In ***Mehnga Singh v. State of Punjab***, 2002(2) R.C.R.(Criminal) 501, this Court has observed that when an accused has been declared as proclaimed offender, a petition against the order under Section 482 Cr.P.C. is not maintainable and that the accused should first move the Court which declared him proclaimed offender and even an objection against validity of proclamation is required to be raised in the first instance before the Court which issued the proclamation and that power under Section 482 Cr.P.C. is not to be exercised in favour of a person, who is absconding or avoiding service.

In view of the above, I find that no ground is there to quash the

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order declaring the petitioner as proclaimed person.

Dismissed.

October 28, 2022
R.S.

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No