

...Petitioner

State of Punjab

...Respondent

Present: Mr. Virender Partap Singh, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

DEEPAK MANCHANDA J.

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure for setting aside/quashing of the order dated 05.09.2014 (Annexure P-2) passed by the Chief Judicial Magistrate, Pathankot in case FIR No. 99 dated 14.11.2012 registered under Sections 304A, 279, 337, 338 and 427 of the Indian Penal Code at Police Station Shahpur Kandi, District Gurdaspur Now District Pathankot, whereby the petitioner was declared as proclaimed offender.

Learned counsel for the petitioner contends in the aforementioned FIR, the petitioner was arrested and released by the Investigating Officer on personal bonds and later on Section 304-A IPC was added on the death of deceased-Arun Kumar. It is further contended that, in the meantime on release on personal bonds the petitioner had gone abroad on 02.03.2014 and returned to India on 02.10.2022 and when he went to Passport Authority for renewal of his passport, then he came to know that he has been declared proclaimed offender by the trial Court vide order dated 05.09.2014. It is further contended that no notice was served upon the petitioner by the trial Court. It is further contended that between 2014 to 2022, petitioner had visited India many a times, but he has never been called upon by the police officials regarding proclamation proceedings. The matter has been

Compromised between the parties vide compromise deed dated 02.02.2019

(Annexure P-4) and no other case is pending against the petitioner.

He further submits that the petitioner is ready and willing to join the trial proceedings.

Notice of motion.

At this stage, Mr. G.S. Sidhu, Assistant AG Punjab, who is present in the Court accepts notice on the asking of the Court and submits that the order 05.09.2014 has been passed on the sole ground of absence of the petitioner, however, it is not disputed by him that the matter has been compromised.

A perusal of the order dated 05.09.2014 (Annexure P-2) reflects that the trial Court proceeded to declare the petitioner as proclaimed offender, though the said order pertains to the year 2014 and the explanation with regard the same has also been given, which became the solitary reason for passing the said order.

I have heard learned counsel for the parties and have also perused the impugned order, where the petitioner has been declared as proclaimed offender. It is not in dispute that the petitioner herein had gone abroad on 02.03.2014 after being released by the Investigating Officer on personal bonds and returned to India on 20.10.2022. No such effort was made by the the prosecution to serve him either in abroad or through publication or through Ministry of Home Affairs, as required by law.

The objective of Section 82 of the Code is to secure the presence of the accused. Once the accused is willing to appear and join trial proceedings, the objective has been achieved.

Consequently, the instant petition stands allowed and impugned order dated 05.09.2014 is set aside. However, arrest of the petitioner is stayed for a period of 2 weeks enabling him to put in appearance before the trial Court to face trial. He is directed to surrender before the trial Court on or before 06.12.2022 and

on him doing so, he would be admitted to bail subject to him furnishing personal

bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is made clear that if the petitioner does not present himself before the trial Court within the stipulated time, interim protection granted to him will be deemed to have been automatically vacated.

(DEEPAK MANCHANDA)
JUDGE

21.11.2022
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes
Yes/No