

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.128

CRM-M-4877-2023

Date of Decision: 31.01.2023

Balkar Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Manoj Kaushik, Advocate
for the petitioner.

Mr. Harpreet Singh, Addl. A.G.Punjab.

TRIBHUVAN DAHIYA, J. (ORAL)

This is a petition for quashing the orders dated 23.02.2018, 17.03.2018 and 19.04.2018 (Annexures P-3, P-5 and P-6 respectively) passed by the trial Court in case FIR No.59 dated 20.05.2016, registered under Sections 406 and 498-A of IPC at Police Station Bhogpur, District Jalandhar Rural, whereby the petitioner has been erroneously treated as a Proclaimed Offender without following the procedure enshrined under Section 82 Cr.P.C.

2. Learned counsel for the petitioner contends that soon after lodging of the FIR on 20.05.2016, the petitioner left for Dubai on 18.06.2016, and came back to India only on 06.10.2022. To substantiate the contention, he has referred to the immigration stamps on the petitioner's passport, copies whereof have been attached with the petition as Annexure P-7. He did not reside in India after 18.06.2016. Therefore, the

petitioner has been wrongly declared/treated as a Proclaimed Offender in violation of the mandatory procedure.

3. Learned State counsel, upon instructions from ASI Prithpal Singh, states that the petitioner was deliberately avoiding arrest since he left the country soon after lodging of the FIR and went to Dubai. Therefore, the orders impugned have been rightly passed.

4. A perusal of the impugned order shows that the trial Court issued proclamation, vide order dated 23.02.2018, requiring appearance of the petitioner/accused before the Court on 17.03.2018. On 17.03.2018, it was recorded that the proclamation issued against the petitioner/accused had been received back duly executed, but no one had put in appearance on his behalf. Since statutory period of thirty days had not lapsed, the case was adjourned to 19.04.2018 awaiting his appearance. On 19.04.2018, no order declaring the petitioner/accused as Proclaimed Offender was passed, though the order recorded him as a Proclaimed Offender. Learned counsel for the petitioner has pointed out that despite having inspected the case file before the trial Court, the petitioner could not find any order of the Court declaring him a Proclaimed Offender.

5. The statement of serving officer dated 12.03.2018 (Annexure P-4) itself records that on reaching the petitioner's village for publication of the proclamation, he found that the petitioner was working in Dubai. This statement as well as the immigration stamps on the petitioner's passport duly establish that the petitioner was neither in India since 18.06.2016, nor residing at the address where proclamation was statedly published. It is, therefore, apparent that the procedure envisaged under Section 82 of the Cr.P.C. was not followed before declaring/treating him a Proclaimed Offender.

6. In view thereof, the impugned orders are set aside to the extent the petitioner has been declared/treated as a Proclaimed Offender therein, along with all subsequent proceedings arising therefrom. He is directed to surrender before the trial Court within a period of fifteen days from today. In case the petitioner surrenders and files an application for grant of bail, the same shall be considered and decided by the trial Court on the same day.
7. Petition stands disposed of.

(TRIBHUVAN DAHIYA)
JUDGE

31.01.2023
Maninder

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