

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

CRM-M No.6255 of 2022
Date of decision: 7th February, 2023

Virsa Singh & another

... Petitioners

Versus

State of Haryana & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. Arvind Pal Singh, Advocate for the petitioners.
Mr. Chetan Sharma, Assistant Advocate General, Haryana
for respondent No.1/State.
Mr. Sanjiv Gupta, Advocate for respondent No.2.

MANJARI NEHRU KAUL, J.

Petitioners in the instant petition filed under Section 482 Cr.P.C. are seeking quashing of order dated 05.09.2019 (Annexure P-5) vide which they were declared proclaimed offenders, order dated 07.11.2019 (Annexure P-8) vide which their properties were ordered to be attached, and lastly, order dated 21.12.2021 (Annexure P-9) vide which learned Judicial Magistrate 1st Class, Tohana dismissed the application filed by the petitioners for release of their properties which had been attached.

Learned senior counsel appearing on behalf of the petitioners has prayed for setting aside of the impugned orders primarily on the ground that there had been non-compliance of the provisions of Section 82 Cr.P.C. He has vehemently submitted that the

petitioners were unaware about the proceedings which had been initiated and were pending against them as they had not been served any notice. Learned senior counsel has further submitted that pursuant to the order of the Court, the petitioners had surrendered before the trial Court. He has also submitted that the mandate of Section 83 Cr.P.C. had also not been followed by the trial Court while passing the impugned order wherein their properties were ordered to be attached. Learned senior counsel submitted that no satisfaction had been recorded in the said order by the trial Court that the property was being disposed of or was sought to be removed by the petitioners.

Learned State counsel has controverted the prayer and submissions made by the counsel opposite. However, he has not been able to dispute the submissions made by the counsel opposite that the petitioners had already surrendered before the trial Court and joined the proceedings.

I have heard learned counsel for the parties and perused the relevant material on record.

The petitioners were declared proclaimed offenders vide order dated 05.09.2019 (Annexure P-5) in a complaint filed under Section 138 of the Negotiable Instruments Act, 1881. Section 83 Cr.P.C. mandates that a Court ordering attachment of property must record its satisfaction to the effect that the accused was about to dispose of or remove the whole or any part of the property from the local jurisdiction of the Court. However, a perusal of the order dated

07.11.2019 (Annexure P-8) shows that no such satisfaction had been recorded by the lower Court while passing the said order.

Even otherwise, admittedly, the petitioners have surrendered before the trial Court and joined the proceedings, hence, in such circumstances continuation of the criminal proceedings would serve no useful purpose. Accordingly, the petition is allowed and the impugned orders (Annexures P-5; P-8 and P-9) are hereby quashed.

(MANJARI NEHRU KAUL)
JUDGE

February 7, 2023
rps

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