

256 (2) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6036-2023 (O&M)

Date of decision: 10.05.2023

Vijay Kumar

...Petitioner

V/s

State of Punjab and another

...Respondents

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Vijay Kumar, Advocate for
Mr. Sunil Agnihotri, Advocate
for the petitioner.

Mr. P.S Grewal, DAG, Punjab.

Mr. Ketan Chopra, Advocate
for respondent No. 2.

DEEPAK MANCHANDA J.

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure seeking quashing of proclaimed person order dated 15.02.2022 (Annexure P-4) in complaint No.54/2016 dated 02.06.2016 registered under Section 323, 325, 341, 148, 149, 504, 506, 120-B of the Indian Penal Code (Annexure P-1) whereby petitioner was summoned under Section 323, 325, 341, 148, 149, 506 of the Indian Penal Code on dated 18.09.2017 (Annexure P-2) passed by Judicial Magistrate First Class, Mukherian, District Hoshiarpur, in view of compromise dated 14.01.2023 (Annexure P-5) and the petitioner is ready to surrender before the trial Court and the trial Court be directed to accept the bail bonds of the petitioner.

Learned counsel for the petitioner contends that during the pendency of the above mentioned complaint, petitioner got job in UAE, for better future, he

discussed this with his family along with complainant Ramesh Lal, then respondent No.2 assured the petitioner that on the next date of hearing complainant shall withdraw the complaint, so petitioner may go for job, hence, under wrong inference and due to lack of knowledge petitioner inadvertently without seeking permission from the Court, left the country for earning better livelihood. Learned counsel further contends that respondent No.2 tried to withdraw the complaint but the same could not be withdrawn and unfortunately petitioner vide order dated 15.02.2022 was declared proclaimed person. Learned counsel submits that respondent No.2 has admitted this fact in compromise dated 14.01.2023 and on account of respondent No.2's assurance that he shall withdraw the complaint and the petitioner did not appear before the trial Court, and consequently declared proclaimed person vide order dated 15.02.2022.

State counsel submits that the impugned order dated 15.02.2022 has been passed on the sole ground of absence of the petitioner, however, it is not disputed by him that the petitioner was on bail and had been appearing before the trial Court.

A perusal of the order dated 15.02.2022 (Annexure P-4) reflects that the trial Court proceeded to declare the petitioner as proclaimed person for the solitary reason of absence of the petitioner.

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 partly allowed and impugned order dated 15.02.2022 (Annexure P-4) is set aside. Arrest of the petitioner is stayed enabling him to put in appearance before the trial Court to

face trial. Petitioner is directed to surrender before the trial Court within a period of two weeks from the date of receipt of certified copy of this order and on his doing so, he shall be admitted to bail subject to his 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

10.05.2023
Sapna

Whether speaking/reasoned	Yes
Whether reportable	Yes/No