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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6420-2023

Date of Decision: February 07, 2023

Jastinder Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Rishabh Gupta, Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of order dated 04.07.2005, vide which the petitioner has been declared as proclaimed offender in complaint case bearing No.SC/51/2001, dated 07.11.2001, under Sections 307, 325, 324, 323, 148, 149 IPC read with Sections 25 and 27 of Arms Act, titled as “Sarwan Singh vs Jaswinder Singh and others”, as the said order has been passed without following due procedure as mandated under Section 82 Cr.P.C.

It has been contended by counsel for the petitioner that petitioner side lodged FIR against the other side and as a counter-blast to the same, complaint was lodged against the petitioner and co-accused in which all other accused were acquitted except three persons, namely, Joginder Singh, who was convicted for a period of three years and accused Parduman Singh and Dilbag Singh, who were released on probation of good conduct, vide judgment dated 04.02.2009. He submits that petitioner is permanent resident of Greece and for the last 22 years he was residing there only. He

submits that now he has returned and has duly compromised the outstanding

issues with the other side, vide Annexure P-9. It is further submitted that absence of the petitioner was totally unintentional and impugned order is also against the mandate of Sections 82 and 83 Cr.P.C. However, at the outset, he submits that though the petitioner has been declared proclaimed offender but now in the attending facts and circumstances of the case, as the matter already stands compromised and the petitioner is ready to join the proceedings, the impugned order be set aside as prosecution of the petitioner would be nothing but an abuse of the process of the Court.

Notice of motion.

Mr.Abhishek Sanghi, Advocate, who is also present in Court, accepts notice on behalf of respondent No.2 and affirms the submissions made by counsel for the petitioner and has submitted that both the parties have amicably resolved all the outstanding issues.

On the asking of the Court, Mr.Sandeep Kumar, DAG, Punjab, who is present in Court, accepts notice on behalf of respondent No.1/State.

After hearing counsel for the parties and perusing the record, it is apparent that the complaint was filed as a counter-blast to FIR No.35, dated 15.04.1999, under Sections 307, 326, 324 and 34 IPC read with Sections 25 and 27 of the Arms Act, registered at Police Station Mukerian, District Hoshiarpur. However, it is not denied that petitioner is permanent resident of Greece and for the last 22 years he was residing there only and now he has returned to India and is keen to join the proceedings. All other accused were acquitted by the trial Court except three persons, namely, Joginder Singh, who was convicted for a period of three years and accused Parduman Singh and Dilbag Singh, who were released on probation of good conduct, vide judgment dated 04.02.2009.

In the overall facts and circumstances of this case, this Court finds that the petitioner should be allowed to appear before the concerned Court and face the trial. Hence, the petition is disposed of. Order dated 04.07.2005 is set aside subject to payment of Rs.50,000/- as costs, to be deposited with the Poor Patients' Welfare Fund, PGIMER, Chandigarh, by the petitioner within a period of one week from today. In case, the petitioner appears and surrenders before the Court concerned within a period of 10 days from today and produce receipt of abovesaid costs and files an application for bail, the Court concerned would consider and decide the same within three days thereafter in accordance with law. He will have protection from arrest for a period of 10 days from today.

Needless to say that in case the petitioner fails to comply with the abovesaid direction, he will have no benefit of abovesaid protection granted by this Court and order under challenge, dated 04.07.2005 would come in force.

February 07, 2023
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |