

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.216-A

Case No. : CRM-M-8305-2023

Date of Decision : May 17, 2023

Lovedeep Kaur Petitioner
vs.
State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. S. S. Cheema, DAG, Punjab.

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GURBIR SINGH, J. :

This petition has been moved for quashing the order dated 19.11.2022, passed by learned Judicial Magistrate Ist Class, Jalandhar (Annexure P-2), whereby the petitioner was declared a proclaimed person in case FIR No.83 dated 27.06.2021, under Sections 406, 420 IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014, registered at Police Station Maqsudan, District Jalandhar.

Learned counsel for the petitioner submits that petitioner is neither a travel agent nor she had induced the complainant to send his son abroad. The petitioner is residing in Malaysia much prior to the registration of the FIR in question. She was never served in this case. Neither any summons nor any warrant was served upon her at her foreign address. She was not aware about registration of FIR against her. She came to know regarding the afore-said FIR when she returned to India. She immediately

filed anticipatory bail but the same was declined vide order dated 01.02.2023 passed by learned Additional Sessions Judge, Jalandhar. It has further been submitted that in the order dated 18.08.2022, learned Judicial Magistrate Ist Class, Jalandhar observed that the warrant of arrest issued against the petitioner were received back unexecuted as she had gone abroad and therefore, the same could not be served upon her. The Court, on the same day, vide order dated 18.08.2022 itself, issued proclamation under Section 82 Cr.P.C. Even 30 days period was not given after proclamation to appear in the Court.

In compliance of order dated 12.04.2023 passed by this Court, Status Report by way of affidavit of Sukhwinder Pal Singh, PPS, Deputy Superintendent of Police, Bawal, Sub-Division Kartarpur, District Jalandhar (Rural), on behalf of respondent-State has been filed in Court today, which is ordered to be taken on record.

Learned State counsel has submitted that the FIR in question was registered after a detailed inquiry was conducted by the Incharge, Economic Offence Wing, District Jalandhar (Rural). After registration of FIR, notice was sent to the petitioner. Since she was residing at Cyprus, proclamation proceedings were initiated against her.

Heard.

The petitioner had been residing in foreign country when the FIR in question was registered against her. The warrant of arrest issued against her was received back unserved with the report that she was living abroad as is clear from the order dated 18.08.2022, passed by learned Judicial Magistrate Ist Class, Jalandhar (Annexure P-4). There is nothing on

the file to show that the petitioner has ever received the summons in this case. She had been residing abroad prior to the registration of FIR. In case **Jagjit Singh and others vs. State of Punjab – 2022(1) Law Herald 223**, it is held that the Courts are required to ensure that personal service of summons are effected upon the accused before issuance of non-bailable warrant. In case, petitioner is residing in foreign country, then a valid personal service has to be effected through Embassy of India, located at the concerned foreign country.

In the present case, since the petitioner was in foreign country and no personal service was effected through Indian Embassy, therefore, the order dated 19.11.2022, passed by learned Judicial Magistrate Ist Class, Jalandhar (Annexure P-2), whereby the petitioner was declared a proclaimed person, is against law and deserves to be set aside.

Ordered accordingly.

May 17, 2023
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(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.