

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

237

CRM-M-9296-2019

Date of decision: 18.01.2023

SAHNI @ RAKHSANA

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Kamalpreet Bawa, AAG, Punjab.

AMAN CHAUDHARY. J.

Present petition has been filed for quashing of order dated 02.12.2017 (Annexure P-4), whereby the petitioner has been declared as proclaimed offender in case FIR No. 76 dated 24.04.2017 under Sections 323, 341, 506, 308, 148 and 149 IPC, 1860 registered at Police Station C Division, District Amritsar.

Notice in the present case was issued on 14.03.2019 while noticing the submissions made on behalf of the petitioner that after the FIR was lodged on 24.04.2017, compromise was arrived at between the parties and the petitioner was under impression that there was no necessity to join the proceedings on account thereof. However, she was declared proclaimed offender vide order dated 02.12.2017 without following mandatory provisions of Section 82 Cr.P.C. The co-accused have already been acquitted of the charges vide judgment dated 06.11.2017. The same evidence would be there against the petitioner. However,

challan has not been presented on account of she having not joined investigation, thus, this Court had directed the petitioner to join investigation and in the event of arrest, she was to release on interim bail subject to payment of Rs.5,000/- before the Mediation and Conciliation Centre of this Court, which was deposited on 30.04.2019, a receipt thereof has been produced in the Court as Mark-A. To buttress her submission, she places reliance on the judgments of this Court in **Gurbir Singh Mundi vs. State of Punjab and another** CRM-M-49283-2021, decided on 16.12.2021.

Learned State counsel, on instructions from ASI Harpreet Singh, affirms the aforesaid fact of the petitioner having joined the investigation.

Heard.

In the case of **Gurbir Singh Mundi** (*supra*), it was held that provisions of Section 82(2) Cr.PC. are to be mandatorily complied with cumulatively and not alternatively. The Court had quashed the order declaring the petitioners therein as proclaimed persons on the ground that declaration was not read publicly in some conspicuous place of town or village, in which the accused ordinarily resides.

Adverting to the facts of the present case inasmuch compromise was arrived at between the parties and the petitioner was under impression that there was no necessity to join the proceedings on account thereof, which appears to be justified explanation of absence. At times, the accused can be prevented by sufficient reasons, to put an appearance before the Court, as such absence cannot necessarily be construed as deliberate and willful. However, it is incumbent upon them to join the proceedings, before the trial

Court, for the culmination of the same. Thus, in order to secure the ends of justice and keeping in view the facts and circumstances of this case that the petitioner had joined the proceedings in compliance of the order passed by this Court and the judgments referred to hereinabove being applicable to the instant case, the present petition deserves to be allowed.

In view of the facts and circumstances of this case and the judgment referred to above, the order dated 02.12.2017 (Annexure P-4) is hereby set aside. Accordingly the present petition is allowed.

(AMAN CHAUDHARY)
JUDGE

January 18, 2023

Mehak

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