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

CRM-M-12611-2023

Date of Decision: 23.03.2023

Gurmeet Singh @ FaujiPetitioner

Versus

State of Punjab and others Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

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MANJARI NEHRU KAUL, J.

Instant petition has been filed under Section 482 Cr.P.C. for quashing FIR No. 47 dated 19.04.2013 under Sections 406, 420, 506 IPC registered at Police Station Kotwali, Nabha, District Patiala (Annexure P1) along with all subsequent proceedings arising out of it and order dated 27.01.2016 (Annexure P3) vide which the petitioner was declared as Proclaimed Offender.

Learned counsel for the petitioner submits that after summoning the petitioner as an additional accused under Section 319 Cr.P.C, he was served summons at his house in his village whereas it was a matter of record that he was serving in the BSF and was stationed at his place of posting at the relevant time, hence, the impugned order declaring him Proclaimed Offender deserved to be set aside.

Learned counsel has further argued that the procedure prescribed under Section 82 Cr.P.C. had not been properly adhered to by the court below as the prescribed period of 30 days had not even elapsed; the serving Constable had posted the proclamation on 25.12.2015 and the matter came up before the court on 06.01.2016. However, instead of issuing a fresh proclamation, the court had adjourned the case to 27.01.2016 and erroneously passed the impugned order declaring the petitioner as Proclaimed Offender. It has further been argued that even otherwise, the prosecution had failed to prove the charges in the instant case against the co-accused Harmanjot Kaur, as a result of which she had been acquitted by being given the benefit of doubt by the court below. Learned counsel submits that in the above circumstances, once the co-accused had been acquitted, it would be an abuse of the process of law in case the petitioner was asked to face the trial. In support of his arguments, he has placed reliance on the judgment of this court in ***Sudo Mandal @ Diwarka Mandal v. State of Punjab*** 2011 (2) RCR (Criminal) 453.

This court does not find any merit in the submissions made by the learned counsel. No doubt, it was argued that the petitioner had not been properly served as he was not residing at the given address, but was posted at his place of posting, when he was summoned under Section 319 Cr.P.C., however, it is not the case of the petitioner that he was unaware about the pendency of criminal proceedings which had been initiated against him. The FIR in question was registered more

than two years prior thereto i.e. on 19.04.2013 prior to the order dated 31.08.2015 vide which the petitioner was summoned under Section 319 Cr.P.C. to face trial.

It is, thus, obvious that the petitioner had evaded the process of law and had been waiting in the wings to await the outcome of the trial which was underway against co-accused Harmanjot Kaur. It is only once the trial concluded and the co-accused was acquitted by the court below by being given the benefit of doubt, he chose to approach the court by way of the instant petition. Reliance placed by the petitioner on ***Sudo Mandal @ Diwarka Mandal's case (supra)*** would not come to his rescue in view of the judgment rendered by Hon'ble the Apex court in ***Yanab Sheikh @ Gagu vs. State of West Bengal*** 2013(6) SCC 428 wherein it has been held as under:-

“23. The cumulative effect of the above discussion is that the acquittal of a co-accused per se is not sufficient to result in acquittal of the other accused. The Court has to screen the entire evidence and does not extend the threat of falsity to universal acquittal. The Court must examine the entire prosecution evidence in its correct perspective before it can conclude the effect of acquittal of one accused on the other in the facts and circumstances of a given case.”

As per allegations levelled in the FIR in question, the petitioner and the co-accused duped people on the pretext of getting them recruited in the Army. Rs.9500/- were deposited into the account of the petitioner. Still further, the court on the basis of evidence on record ordered the summoning

of the petitioner as an additional accused under Section 319 Cr.P.C. However, the accused did not turn up to face trial. Quashing of the FIR in question, more so, when the conduct of the accused itself shows flagrant disregard for the process of law, would in fact be an abuse of the process of law which cannot be facilitated by this court.

The petition being devoid of merit is dismissed.

23.03.2023

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(MANJARI NEHRU KAUL)
JUDGE

Note: Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No