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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13315-2023

Date of decision : 19.05.2023

Manga Singh

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Ms. Riffi Bala Birla, Advocate
for the petitioner.

Mr. Vinay Kumar Gupta, Assistant A.G. Punjab.

AMARJOT BHATTI, J. (oral)

1. Petitioner - Manga Singh has filed petition under Section 482 Cr.P.C. for quashing of order dated 16.11.2022 (Annexure P-3) passed by learned Judicial Magistrate First Class, Abohar, District Fazilka vide which he has been declared as proclaimed person in FIR No. 83 dated 16.09.2021, registered under Section 376-D, 342, 506 of IPC at Police Station Sadar Abohar, Fazilka.

2. Learned counsel for the petitioner argued that the aforesaid FIR has been registered on the statement of complainant. The allegations levelled in the FIR, Annexure P-1 are false. He has not committed any offence. Infact, the petitioner was not aware of the registration of this FIR. The petitioner's brother and the prosecutrix were having love affair and they had approached the Hon'ble Commission for protection of their life and liberty. He has been wrongly nominated as accused alongwith his

brother Gurpiar Singh and mother Murti Kaur. They were arrested in this case and were released on regular bail. The present petitioner was working as Driver on a tractor and used to go to various places like Bikaner, Jodhpur, Jammu. He was not residing with the family since the year 2021. His family never intimated that he was named as accused in the aforesaid FIR. Moreover, the petitioner is a handicapped person. The certificate in this regard is Annexure P-2. He was not aware of the proclamation proceedings. The impugned order dated 16.11.2022 placed on record is Annexure P-3. He is ready to join the investigation. It is prayed that the impugned order dated 16.11.2022 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Abohar may be set aside.

3. On the other hand, learned State counsel has filed detailed status report alleging that the present petitioner alongwith Gurpiar Singh alias Mehanga, Murti Kaur wife of Tej Singh are nominated as accused in FIR No. 83 dated 16.09.2021 under Section 376-D, 342, 506 of IPC, registered at Police Station Sadar Abohar, District Fazilka. It is further alleged that other accused Murti Kaur alias Mandeep Kaur is on bail, whereas Gurpiar Singh is in judicial custody. The present petitioner was absconding and he was declared proclaimed person vide order dated 16.11.2022, Annexure P-3. After the completion of investigation, the challan was presented in the Court on 15.11.2021 and the trial is going on in the Court of learned Additional Sessions Judge, Fazilka. The petitioner was having full knowledge of registration of FIR against him and the other co-accused. They belong to the same family. The stand taken by them is without merits. The petitioner did not appear before the trial Court deliberately. He was declared proclaimed person by the Court after following due procedure. Therefore, the petition filed by the petitioner is without merits.

4. I have considered the arguments advanced before me. I have gone through the record carefully. It is matter of record that FIR No. 83 dated 16.09.2021 under Section 376-D, 342, 506 of IPC, Police Station Sadar Abohar, District Fazilka was registered against the accused Gurpiar Singh alias Mehanga, his mother Murti Kaur and the present petitioner Manga Singh who is the brother of Gurpiar Singh alias Mehanga. The status report clearly indicates that after the completion of investigation, challan has been presented and the trial is going on before the Court of learned Additional Sessions Judge, Fazilka. One co-accused Gurpiar Singh is in judicial custody, whereas Murti Kaur alias Mandeep Kaur was granted bail.

The present petitioner has taken the stand that he has not come home since 2021. He being Tractor driver was going to different places like Bikaner, Jodhpur, Jammu, therefore, he was not aware of the registration of aforesaid FIR. The stand taken by the petitioner does not convince the mind of this Court. There is nothing on record to show that he was moving from one place to the other or he was not in contact with his mother Murti Kaur alias Mandeep Kaur or his brother Gurpiar Singh. The address given by the petitioner in this petition is the same on which the learned Judicial Magistrate was trying to procure the service of the petitioner. I have gone through the procedure followed by the learned Judicial Magistrate First Class, Abohar, District Fazilka for procuring the presence of present petitioner Manga Singh. Initially effort was made to procure his presence by issuance of his warrants of arrest and when his arrest warrants were received back unexecuted, the proclamation proceedings were initiated under Section 82 of Cr.P.C. As per order dated 18.08.2022, fresh proclamation was issued for 16.11.2022, directing the

serving constable to effect the proclamation on or before 15.09.2022. The statement of serving constable SC Rakesh Kumar is also on record. He has placed on record the proclamation pasted outside the house of the accused which was locked at that time. The copy of proclamation Ex.P1, report Ex.P2 and one photograph of the serving constable while affixing the proclamation is also annexed with the record. After the issuance of proclamation, the petitioner was given one month's time to appear before the trial Court but he failed to appear and ultimately, he was declared a proclaimed person.

Therefore, the proper procedure was followed to initiate the proclamation proceedings qua the present petitioner. The reason given by the petitioner regarding his non-appearance is without merits. Resultantly, I do not find any reason to quash the proclamation order dated 16.11.2022 passed by learned Judicial Magistrate First Class, Abohar, District Fazilka and accordingly, the present petition is declined.

19.05.2023

*lalit***(AMARJOT BHATTI)**
JUDGEWhether speaking/reasoned:
Whether reportable:Yes/No
Yes/No