

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 09.05.2023

1. CRM-M-19714-2021

Kulvir Singh	Vs.	...Petitioner
State of Punjab		...Respondent

2. CRM-M-21585-2021

Kulvir Singh	Vs.	...Petitioner
State of Punjab		...Respondent

CORAM: HON’BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Dr. Surinder Singh Joshi, Advocate
for the petitioner.

Mr. P.S.Grewal, DAG, Punjab.

DEEPAK MANCHANDA, J.(Oral)

Petitioner -Kulvir Singh has filed above mentioned two separate petitions under Section 482 Cr.P.C for quashing of order dated 17.03.2010 (Annexure P-1) passed in case FIR No.206 dated 09.09.2009, whereby petitioner was declared proclaimed offender. Further, the prayer has been made for quashing the order dated 14.02.2011 (through CRM-M-21585-2021), whereby warrant of arrest have been issued against the petitioner.

The facts emanating from the present petition are that FIR No.206

dated 09.09.2009 under Sections 302, 148, 149 and 120-B IPC registered at Police Station Sadar Rajpura against the petitioner whereby vide order dated 17.03.2010, petitioner was declared proclaimed offender, whereas the other co-accused were acquitted from the charges vide judgment dated 27.01.2011. Thereafter, petitioner approached this Court through CRM-M-9178-2021 for grant of anticipatory bail, however, the same was dismissed as withdrawn vide order dated 26.02.2021 (Annexure P-6) with liberty to take out appropriate proceedings before the learned trial Court in accordance with law otherwise than by way of petition under Section 438 Cr.P.C.

Learned counsel for the petitioner submits that the petitioner was declared proclaimed offender without hearing and serving notice to him and prays for quashing of the same.

On the other hand, learned State counsel while referring to the reply dated 06.08.2021, opposed the prayer of learned counsel for the petitioner on the ground that the FIR was registered in the year 2009 and petitioner was declared proclaimed offender on 17.03.2010 and since then, petitioner has not surrendered before the trial Court. He prays for dismissal of the petitions.

I have heard learned counsel for the parties and have gone through the case file carefully.

A perusal of the case file reveals that the present petition has been filed after a gap of 11 years and there is no explanation with regard to filing of the present petition after inordinate delay. Moreover, after going through the pleadings, the petitioner has not taken any ground to challenge the said impugned order except saying that co-accused have already been acquitted vide judgment dated 27.01.2011. Since, the petitioner was aware about the acquittal

of the other co-accused, but he remained silent for 11 years and chose to file present petition only in the year 2021. In fact, he could have availed the remedy in accordance with law by surrendering before trial Court or by seeking quashing of the impugned order dated 17.03.2010 immediately after coming to know about the acquittal of the other co-accused. Even otherwise, except the impugned order dated 17.03.2010 (Annexure P-1) no other document has been annexed with the present petition i.e. zimni orders to show that how this impugned order is bad in law, which seems to be passed after following the due procedure by giving stipulated period of 30 days and when the petitioner did not turn up, the Court did not have any option except to declare him as proclaimed offender.

CRM-M-21585-2021

The second petition has been filed to challenge the order dated 14.02.2011 (Annexure P-1), whereby warrants of arrest have been issued against the petitioner.

In the present petition, Annexure P-1 does not show issuance of any warrants of arrest against the petitioner except mentioning therein certified copy of the order dated 17.03.2010 as well as the application for issuing warrant of arrest. Apart from this, the order for warrants of arrest mentioned as 14.02.2011, no formal order passed by the trial Court has been annexed. In the absence of the same, the present petition cannot be accepted.

Moreover, the petitioner had filed CRM-M-9178-2021 for grant of anticipatory bail, which was dismissed as withdrawn with the liberty to take out appropriate proceedings before the learned trial Court in accordance with law otherwise than by way of petition under Section 438 Cr.P.C. and it is

settled proposition of law that until and unless PO order is set aside, neither the application for anticipatory bail can be accepted nor warrants of arrest can be quashed.

Keeping in view the aforesaid facts and circumstances, this Court is not inclined to invoke its extraordinary power under Section 482 Cr.P.C. for such casual and irresponsible attitude of the petitioner.

Consequently, both the petitions are hereby dismissed.

(DEEPAK MANCHANDA)
JUDGE

09.05.2023
sapna/vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No