

(201)

2023:PHHC:056317

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23965 of 2022

Date of Decision: April 21, 2023

Dhirendra Kumar Rajak

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Nischal Chetanya Manchanda, Advocate
for the petitioner.
Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.(Oral)

Petitioner was declared proclaimed offender during proceedings of case FIR No.502 dated 08.07.1999 registered at Police Station Central, Faridabad, under Sections 406 and 409 IPC and consequent thereto, FIR No.164 dated 20.04.2022 was registered under Section 174A IPC against him at Police Station Central Faridabad.

2. Prayer in this petition is to quash the order dated 25.05.2007 (Annexure P.8) whereby he was declared proclaimed offender; and FIR No.164 dated 20.04.2022 under Section 174A IPC and the subsequent proceedings.

3. It is contended by learned counsel that FIR No.502 dated 08.07.1999 under Sections 406 and 409 IPC registered at Police Station Central Faridabad in which the petitioner was declared proclaimed offender has already been quashed by this Court vide order dated 14.02.2023 in CRM-M-21473 of 2022. It is further contended that while passing that order dated 14.02.2023, this Court has also quashed the proceedings of declaring the petitioner as proclaimed offender.

4. While deciding CRM-M-21473 of 2022 on 14.02.2023, this

Court had observed as under:-

“13. Coming to the proceedings regarding declaring the petitioner as proclaimed person and registration of the FIR under Section 174-A IPC, it is important to notice that though petitioner was declared proclaimed person on 25.05.2007 but FIR No.164 under Section 174-A IPC has been registered in 2022 as evident from the reply of respondent- State, i.e. After 15 years.

14. Section 468 IPC bars taking cognizance of an offence by any Court, for an offence punishable up to three years imprisonment after a period of three years. Section 174-A IPC provides punishment of three years, unless declaration has been made under sub-Section (4) of Section 82 Cr.P.C pronouncing a person as proclaimed offender, in which case punishment can extend to seven years. Section 82(4) Cr.P.C mentions various provisions of IPC, wherein a person can be declared as a proclaimed offender in case of his failure to appear despite proclamation. Section 406 and 409 IPC do not find mention therein. Meaning thereby, in case the petitioner had absconded and did not appear despite proclamation for committing offences under Section 406 & 409 IPC, he at the most could have been declared a proclaimed person; and not the proclaimed offender under Section 82(4) Cr.P.C and, therefore, the sentence under Section 174-A IPC can be up to three years qua him. As noticed above that FIR under Section 174-A IPC has been registered in 2022 i.e after 15 years of declaring the petitioner as proclaimed person and, therefore,

the said FIR is liable to be quashed, as no cognizance can be taken after a period of three years.

15. On account of entire discussion as above, FIR No.502 dated 08.07.1999 registered under Section 406, 409 IPC at Police Station Central Faridabad (Annexure P.2), charge-sheet dated 07.04.2003 (Annexure P.3) and all subsequent proceedings arising therefrom including declaring the petitioner as proclaimed person and registration of the FIR under Section 174-A IPC against him, are hereby quashed.”

5. In view of the afore-said orders, the FIR No.164 dated 20.04.2022 registered at Police Station Central Faridabad and the subsequent proceedings stand quashed.

April 21, 2023

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(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No