

2023:PHHC:159643

CRM-M-49066-2018  
(260)

:1 :

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-49066-2018 (O & M)  
Date of Decision: 13.12.2023

Moti Singh

... Petitioner

Versus

State of Punjab and anr.

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: None for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

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**JASJIT SINGH BEDI, J.**

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of FIR No.231 dated 20.10.2015 under Sections 406, 420, 120-B IPC, Police Station Mandi Gobindgarh, Distt. Fatehgarh Sahib and the subsequent proceedings arising therefrom including the order dated 16.11.2017 (Annexure P-5) vide which the petitioner has been declared as proclaimed offender and the subsequent proceedings arising on the basis of compromise effected between the parties and affidavit dated 02.01.2018 (Annexure P-2).

2. On 02.11.2018, the following order was passed:-

*“The petitioner seeks quashing of FIR No.231 dated 20.10.2015 under Sections 406, 420, 120-B of Indian Penal Code, 1860 Police Station Mandi Gobindgarh, District Fatehgarh Sahib on the ground that compromise has since been effected between the parties; and also for setting aside*

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*of order dated 16.11.2017 (Annexure P-5) vide which the petitioner has been declared proclaimed offender.*

*Learned counsel submits that the provisions of Section 82 Cr.P.C. has not been adhered to in letter and spirit inasmuch as a clear notice of 30 days was never furnished which is the requirement of Section 82 Cr.P.C.*

*Learned counsel for the petitioner in this context refers to order dated 11.10.2017 (Annexure P-3) from where it is evident that while orders for initiating proclamation proceedings were issued on 11.10.2017, the date fixed for presence of the petitioner was 25.10.2017, which is less than 30 days.*

*Notice of motion for 29.11.2018.*

*In the meanwhile no coercive steps shall be taken on the basis of order dated 16.11.2017 (Annexure P-5) declaring the petitioner as proclaimed offender.*

*In the meanwhile, the petitioner would be at liberty to place on record a copy of proclamation notice and statement of serving official.”*

Thereafter, on 30.01.2019, the following order was passed:-

**“CRM-41950-2018**

*In view of the reasons mentioned in the application, the same is allowed and the proclamation notice, statement of serving official are taken on record as Annexures P-6 and P-7 subject to all just exceptions. It has however been pointed out by learned counsel for the applicant that there is typographical error in the translated version of statement Annexure P-7 wherein the date of statement has inadvertently been recorded as ‘16.10.2014’ instead of*

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*'16.10.2017' as had been mentioned correctly in the vernacular version of the said statement.*

**Main Case**

*The petitioner seeks quashing of the FIR (Annexure P-1) as well as order dated 16.11.2017 (Annexure P-5) vide which the petitioner was declared as a proclaimed offender. A perusal of the proclamation notice Annexure P-6 shows that the trial Court had issued the said notice on 11.10.2017 while directing the accused to appear on 25.10.2017. As per the statement of serving official (Annexure P-7) publication of the said notice was effected on 16.10.2017. In other words when the publication was effected the time furnished to the accused to appear was less than 30 days as he was required to appear by 25.10.2017. This Court in Ashok Kumar Versus State of Haryana and another, 2013(4) R.C.R. (Criminal) 550 in identical circumstances had quashed an order whereby an accused had been declared proclaimed offender mainly on the ground that a clear period of 30 days had not been provided. In view of the aforesaid violation of mandatory provision of Section 82 Cr.P.C., the order dated 16.11.2017 (Annexure P-5) declaring the petitioner as proclaimed offender cannot be sustained and the same is hereby set aside.*

*The petitioner seeks quashing of FIR (Annexure P-1) and proceedings emanating therefrom on the basis of a compromise effected between the parties.*

*The parties are directed to appear before the Illaqa Magistrate/trial Court on 06.03.2019 for recording their statements qua compromise.*

*Since the petitioner is stated to be residing abroad and the present petition has been filed through Special*

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*Power of Attorney, therefore, the statement qua compromise may be got recorded through Special Power of Attorney-Mewa Singh, if duly authorized for said purpose.*

*The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing i.e. 14.05.2019 as regards authenticity and genuineness of compromise after recording statement of all the affected parties.*

*The Illaqa Magistrate/trial Court shall also furnish the following information:*

- 1. Whether there is any other accused other than the petitioners, arrayed in this petition.*
- 2. Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition”.*

Thereafter, the matter was adjourned to 29.08.2022 and 12.01.2023 as none had appeared on behalf of the petitioner.

3. On 20.03.2023, the following order was passed:-

*“Mr. Hardeep Singh, Advocate has put in appearance on behalf of respondent No.2 and filed his Memo of Appearance, the same is taken on record. He undertakes to file his Vakalatnama in due course of time.*

*In view of order dated 30.01.2019, report of learned Sub Divisional Judicial Magistrate, Amloh through learned District and Sessions Judge, Fatehgarh Sahib, has been received and the same is taken on record. As per report, parties have not appeared before the trial Court for getting their statements recorded.*

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*Learned counsel for the petitioner submits that their statements have already been recorded. He seeks time to verify the same.*

*On request, adjourned to 19.07.2023”.*

Thereafter, on 19.07.2023 and 09.10.2023, none had appeared for the petitioner and the following orders were passed:-

*“Office report reveals that none of the parties appeared before the Court below for recording of their statements with regard to compromise, as was directed by previous order.*

*In the interest of justice, one more opportunity is granted and parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to the compromise on 05.08.2023.*

*Adjourned to 09.10.2023.*

*A report with regard to veracity of the compromise be furnished to this Court on or before the adjourned date.*

*-Sd-*

*(ARUN MONGA)*

*JUDGE*

*July 19, 2023*

*Ajay”*

*“Report dated 30.09.2023 has been received from learned Sub Divisional Judicial Magistrate, Amloh. Perusal of the same reveals that private parties did not appear before that Court to record their statements with regard to compromise.*

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*At this stage, learned counsel for the parties, seeks one more opportunity to record their statements with regard to compromise.*

*Accordingly, parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements with regard to compromise.*

*A report with regard to veracity of the compromise be furnished to this Court on or before 13.12.2023.*

-Sd-

(ARUN MONGA)

JUDGE

*July 19, 2023*

*Mohit Bishnoi”*

4. Today, once again, none has appeared on behalf of the petitioner.
5. As per the report of the Sub Divisional Judicial Magistrate, Amloh dated 30.09.2023, none of the parties had appeared for recording their statements qua the compromise/affidavit (Annexure P-2).
6. In view of the above, the present petition is dismissed.
7. Interim order dated 02.11.2018 stands vacated.

(JASJIT SINGH BEDI)  
JUDGE

December 13, 2023  
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No