

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

253

CRM-M-7214-2016 (O&M)
Date of decision: 10.01.2023

ALOK KAPOOR

....Petitioner(s)

Versus

HARJEET KAUR AND ANR

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Deepanshu Gupta, Advocate for
Mr. Puneet Sharma, Advocate
for the petitioner.

Mr. Chanchal K. Singla, Advocate
for respondent No.1.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for setting aside the impugned order dated 04.07.2013 Annexure P-1 passed by learned Judicial Magistrate 1st Class, Patiala, in complaint No.30T/04.06.2008 dated 31.05.2008, whereby the petitioner has been declared proclaimed offender without serving him on his address.

Learned counsel for the petitioner submits that in the complaint lodged against him, he was never served on his address. It is on account of not having been served or having knowledge of the proceedings against him, that he could not appear and was declared a proclaimed offender without compliance of provisions of Section 82 Cr.P.C.

Learned counsel for the petitioner undertakes that the petitioner shall

appear on each and every date of hearing before the trial Court and shall also furnish an undertaking by way of an affidavit to the aforesaid effect before the trial Court, failing which action in accordance with law be taken against him.

Learned counsel appearing on behalf of respondent No.1 affirms the aforesaid factum, however, it is his submission that despite the petitioner having appeared and surrendered, the trial has not commenced ever since.

Heard.

The very purpose of issuance of non-bailable warrants, is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

Adverting to the facts of the present case inasmuch as the petitioner was never served on his address and due to which he had no knowledge of the proceedings against him, thus could not appear before the trial Court, leading to the passing of the impugned order, and he was vide order dated 05.10.2016, directed to appear before the learned trial Court within a period of 7 days and on so doing, was to be released on bail. As is recorded in the order dated 27.10.2016, the petitioner had submitted before this Court that he had appeared before the trial Court and has since been released on interim bail and furnished bail bonds for which she makes a reference to order dated 10.10.2016.

At times, the accused or his counsel can be prevented by sufficient reasons to put an appearance before the Court on a given date and every such absence cannot necessarily be construed as deliberate and willful. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Thus, in order to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the

present petition deserves to be allowed.

In view of the aforesaid fact that the petitioner had appeared before the trial Court by surrendering on 10.10.2016 in terms of order dated 05.10.2016, passed by this Court and had also been admitted to bail, and joined the proceedings for which non-bailable warrants were issued, thus, the present petition is allowed and the impugned order dated 04.07.2013, Annexure P1 is set aside.

However, keeping in view the peculiarity of facts and circumstances of the present case that the complaint is pending since 2013, the trial Court is directed to decide the same expeditiously.

(AMAN CHAUDHARY)
JUDGE

January 10, 2023

M.Kamra/S.Sharma(syr)

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No