

CRM-M-27875-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-27875-2023 (O&M)
DATE OF DECISION:-01.06.2023

Avtar Sondhi	Vs.	...Petitioner.
State of Punjab		...Respondent..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Amandeep Saini, Advocate,
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of order dated 24.12.2011 passed by the court of CJM, SBS Nagar, whereby, the petitioner was declared as proclaimed offender.

2. Having been implicated in FIR No.112, dated 20.11.2010, under Section 420 IPC, registered at Police Station Rahon, District SBS Nagar, the petitioner was later declared as proclaimed offender vide order dated 24.12.2011.

3. The aforesaid order has been impugned by learned counsel for the petitioner while submitting that even as per the report of the process serving officer which was recorded on 07.06.2011, the petitioner was already abroad and even the Chowkidar was having no information about his return, thus, declaration of the petitioner as proclaimed offender was totally bad in law without initiating steps under Section 105 Cr.P.C. In addition, learned counsel also pointed out that the petitioner has even entered into a settlement with complainant-respondent No.2

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and based thereupon, a petition seeking quashing of FIR in question has already been filed before this Court vide CRM-M-21683-2023, which even stands allowed on 01.06.2023.

4. On the other hand, learned State counsel opposes the prayer made herein while submitting that the petitioner, despite having knowledge about the pendency of proceedings against him, tried to evade the process of law. Although, learned counsel for the complainant has no objection to the success of present petition admitting that the parties have already settled their disputes.

5. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made on behalf of the petitioner.

6. In the present case, the statement of process serving officer, namely, HC Jaswinder Singh recorded on 07.06.2011 which is relevant for the effective adjudication of the case in hand is extracted below:-

“Chowkidar of the village has stated that accused Avtar Singh has gone abroad and there is no intimation regarding his return. I went to the house of Avtar Singh along with him and wife of Avtar Singh namely Santosh Kumar was found present. She stated that Avtar Singh has gone abroad way back and there is no intimation regarding his return. Statement of the Chowkidar of the village has been recorded and I verified the same.”

7. A perusal of aforesaid report/ statement clearly shows that at the time of effecting proclamation, the petitioner was not in India and thus, before declaring him as proclaimed offender, the procedure as laid down under Section 105 Cr.P.C. was required to be initiated which provides for the procedure to serve summons and warrants to accused

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residing outside India and in the absence of having followed the same, the declaration of petitioner as proclaimed offender by proceeding under Section 82 (2) Cr.P.C. only was patently illegal. Since Chapter VI Cr.P.C. regulates the liberty of an individual, therefore, it has to be strictly construed and no individual can be proceeded against under the same in a casual manner. My aforesaid view has been derived from judgment passed by a Coordinate Bench of this Court in **CRM-M-33794-2017, titled as “Balkar Singh vs. State of Punjab and another”**, decided on 23.03.2023 and CRM M-37446-2022 titled as Vikramjeet Singh @ Vikram Singh Vs. State of Punjab and others, decided on 13.01.2023.

8. Moreover, the petitioner has already entered into a settlement with respondent No.2 and based thereupon, petition for quashing of FIR in question already stands allowed by this Court.

9. Thus, in view of the discussion made herein above as well as keeping in mind the law laid down in the aforesaid judgement, the present petition is allowed. Order dated 24.12.2011, passed by the court of CJM, SBS Nagar, declaring the petitioner as proclaimed offender, is hereby quashed.

10. Pending misc. application(s), if any, shall also stand disposed of.

01.06.2023
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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No