

2023:PHHC:116129

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

275 (02 cases)

CRM-M-28984-2023

Date of Decision.:04.09.2023

Jhirmal Singh through his lawful attorney Buta Singh @ Butta Singh
Petitioner

Vs.

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. M.S. Rana, Advocate for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

Ms. Nisha Rana, Advocate for respondent No.2.

DEEPAK GUPTA, J. (ORAL)

On 25.07.2023, following order was passed by this Court:-

"The present petition has been filed through lawful attorney. Learned counsel has referred to a Division Bench judgment of this Court rendered in Mangal Dass Gautam and others Vs. State of Haryana and others- CRM-M-6890 of 2013, decided on 01.06.2018 whereby petition under Section 482 Cr.P.C filed through Power of Attorney was held to be maintainable.

Prayer in this petition filed under Section 482 Cr.P.C is for setting aside the impugned order dated 14.05.2019 (Annexure P.1) passed by learned Judicial Magistrate Ist Class, Dasuya, whereby the petitioner has been declared as proclaimed offender in a case arising out of FIR No.150 dated 18.09.2017 (20.10.2017) registered under Sections 323, 452, 427, 148, 149 IPC at Police Station Dasuya, District Hoshiarpur along with all consequential proceedings including under Section 174-A IPC.

Notice of motion.

Mr. R.S. Khaira, DAG, Punjab, accepts notice on behalf of the respondent- State. Ms. Nisha Rana, Advocate, appears for the complainant.

Attention is drawn by learned counsel towards order dated 12.03.2019 (Annexure P.4) passed by learned Sub Divisional

Judicial Magistrate, Dasuya, as per which on receipt of warrants of arrest as unexecuted, proclamation was ordered to be issued for 12.04.2019. The executing police official, published the proclamation on 11.04.2019 as per his statement Annexure P.5 and thus, there was only one day left for appearance on 12.04.2019 as the proclamation was for 12.04.2019. Noticing that period of thirty days had not elapsed on 12.04.2019, the Court on that day adjourned the matter for 14.05.2019 and then on 14.05.2019, declared the petitioner as proclaimed offender.

It is rightly contended by learned counsel that since there was no proclamation for 14.05.2019, therefore, he has been illegally declared as a proclaimed offender and thus, impugned order is per-se illegal being in violation of Section 82 Cr.P.C. As such, order dated 14.05.2019 is hereby set aside along with all the consequential proceedings arising therefrom.

Learned counsel also submits that the petitioner shall surrender before the trial Court within a period of 40 days.

Adjourned to 04.09.2023.

In the meantime, petitioner shall surrender before the trial Court. Since the impugned order whereby the petitioner was declared as proclaimed offender has been set aside, therefore, it is directed that on appearance of the petitioner before the trial Court, petitioner shall be admitted to bail to the satisfaction of learned trial Court/ Duty Magistrate.”

Today learned counsel for the petitioner has placed on record copy of the order dated 18.08.2023 passed by Judicial Magistrate 1st Class, Dasuya to show that petitioner had surrendered before the Trial Court and was allowed bail.

In view of the above, the present petition is hereby disposed of, as the order declaring the petitioner as proclaimed person, has already been set aside along with all the consequential proceedings as per the order dated 25.07.2023.

(DEEPAK GUPTA)
JUDGE

September 04, 2023

Neetika Tuteja

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No