

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32541-2022

Date of Decision :- 24.08.2023

Bhisham Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Amritpal Singh Gill, Advocate
for the petitioner.

Mr.Anup Singh, AAG, Punjab.

Mr.Ravneet Singh Joshi, Advocate
for the complainant.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.106 dated 12.07.2015, under Sections 325, 323, 34 IPC, registered at Police Station Chhajli, Sunam, District Sangrur, Annexure P1 and subsequent proceedings arising therefrom including order dated 16.01.2017, Annexure P3, whereby the petitioner was declared as proclaimed person.

2. On 08.09.2022, this Court has passed the following order:

“Counsel for the petitioner while restricting his argument only with regard to challenge laid to order dated 16.1.2017 (Annexure P- 3) whereby the petitioner was declared

as proclaimed person in criminal case having FIR No.106 dated 12.7.2015 registered under Sections 325, 323, 34 IPC at Police Station Chhajli, Sunam, District Sangrur. He further submits that at the time of the passing of the aforesaid order, the petitioner was in Portugal as is evident from his passport whose copy is placed on record. He further contends that co-accused who faced trial have already been acquitted and that no proper procedure was followed by the trial Court while declaring the petitioner as proclaimed person vide impugned order as no notice was ever issued to the petitioner through the concerned Embassy.

Notice of motion.

Mr. C.L.Pawar, Addl. AG, Punjab accepts notice on behalf of the State and on instructions from HC Ranjit Singh has not refuted the fact that co-accused have already been acquitted by the trial Court and copy of the concerned judgment is dated 3.11.2018 (Annexure P-2). From the perusal of the impugned order, it appears that proper procedure was not followed by the trial Court despite the fact that at the relevant time, the petitioner was not available in India.

List on 16.2.2023.

In the meantime, the petitioner is hereby directed to appear before the trial Court within next 60 days and on his appearance, he is directed to be released on interim bail by the said Court to its own satisfaction till the next date fixed in the

present petition.”

3. Counsel for the petitioner submits that in deference to the reproduced order, petitioner has surrendered before the trial Court and has been released on interim bail on furnishing bail/surety bonds by order dated 19.10.2022, a copy of which has been placed on record. He submits that the petitioner has been regularly appearing before the trial Court.

4. The objective of Section 82 Cr.P.C. is to ensure the presence of the accused. Once the accused has surrendered and joined the proceedings, he can no longer be described as an absconder. The impugned order, therefore cannot be sustained.

5. Accordingly, while disposing of the petition, the impugned order dated 16.01.2017, Annexure P3 is quashed insofar as the petitioner has been declared as a proclaimed person.

24.08.2023

Brij

(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No