

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34663-2023
Date of Decision: 06.09.2023

Murshid Ahmed

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Mohammed Arshad, Advocate, for the petitioner.

Mr. Randhir Singh, Addl. A.G. Haryana.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 482 Cr.P.C. is to quash order dated 20.03.2007 passed by Id. JMIC, Ferozepur Jhirka (Annexure P2), whereby petitioner was declared proclaimed offender in a case arising out of FIR No.118 dated 12.05.2000 under Sections 279/337/427 IPC registered at Police Station Punhana, District Gurgaon.

2. Ld. counsel submits that petitioner was duly allowed bail by the Court and that petitioner was regularly attending the hearings. However, he mistakenly noted down the wrong date as 28.07.2007 in place of 20.03.2007, due to which he was declared proclaimed offender. Ld. counsel further contends that petitioner was never served in any manner and that petitioner could not have been declared proclaimed offender considering the offence in question, as it is only for certain specified offences mentioned in Section 82(4) CrPC for which a person can be declared as a proclaimed offender.

3. Perusal of the paper-book reveals that it is on 20.03.2004 that the petitioner absented from trial before the concerned trial Court, due to which his bail was cancelled and bonds were forfeited. Warrants of arrest were directed to be issued against him. It is thus, clear that contention of the

petitioner to the effect that he had noted the wrong date as 28.07.2007 instead of 20.03.2007 is factually incorrect because petitioner had absented on 20.03.2004 and not 20.03.2007. Further various zimini orders, as placed on record by the petitioner himself, reveal that warrants of arrest and then proclamation were issued against him. It is only after receiving the proclamation and he did not appear pursuant thereto that petitioner was declared proclaimed offender.

4. As bail of the petitioner was cancelled and bonds were forfeited due to his own conduct, inasmuch as the petitioner misused the concession of bail granted to him, therefore, the petitioner does not deserve to be given any relief.

5. At the same time, contention of counsel for the petitioner is legally correct to some extent. A person-accused of offence of certain specified offences as mentioned in Section 82(4) CrPC can be declared as proclaimed offender. Sections 279/337/427 IPC do not fall within the purview of Section 82(4) CrPC and therefore, petitioner could not have been declared as proclaimed offender. At the most, he could have been declared as proclaimed person as per Section 82(1) CrPC. Therefore, impugned order dated 20.03.2007, passed by the trial Court, is set aside to that extent only that instead of proclaimed offender, petitioner shall be treated to have been declared as a proclaimed person under Section 82(1) CrPC.

However, petitioner is not entitled for grant of any other relief.

Dismissed.

(DEEPAK GUPTA)
JUDGE

06.09.2023

Vivek

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No