IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-38606-2020 (O&M)
Date of decision: 13.07.2023

Shavi Verma

....Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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Present : Mr. Nitin Kumar Sharma, Advocate for
Mr. Pawan Attri, Advocate for the petitioner

Mr. Dhruv Sihag, AAG Haryana

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AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 CrPC for quashing of the impugned order dated 06.01.2016 (Annexure P-1) as well as other subsequent proceedings arisen out from it, passed by learned JMIC, Pehowa in FIR No.455 dated 15.12.2014, registered under Sections 356 and 379 IPC, at Police Station Pehowa, District Kurukshetra.

2. Learned counsel submits that the name of the petitioner surfaced based on disclosure statement of co-accused Manish alias Vishu. However, without effecting service upon him under Section 82 Cr.P.C., he was declared a proclaimed person as the address mentioned in the FIR was not correct, where he never resided. The co-accused of the petitioner have been acquitted by the trial Court vide judgment dated 07.11.2017. The absence of the petitioner is neither wilful nor deliberate but on account of the reason aforesaid. Further that he is ready and willing to join the proceedings and it is prayed that one opportunity may be granted to him to surrender before the learned trial Court even if the same is

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subject to costs. Reliance is placed on the the orders of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of **Surjit Singh vs. State of Punjab**, CRM-M-39000-2022, titled as **Raghav vs. State of Punjab**, decided on 09.09.2022 and CRM-M-36490-2022, titled as **Major Singh vs. State of Punjab**, decided on 15.09.2022.

3. Learned State counsel opposes the petition by submitting that the impugned order is legal and valid and has been rightly passed by the learned trial Court on account of non-appearance of the petitioner.

4. As per office report, respondent No.2 was served, however, there is no representation on his behalf. No order which shall be prejudicial to her interest, is proposed to be passed.

5. Heard.

6. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

7. Adverting to the facts of the present case, the reasons for non-appearance of the petitioner that led to the passing of the impugned order, appear to be justified. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court and such an absence cannot necessarily be construed as deliberate and wilful. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner was not wilful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help in expediting the trial. Thus,

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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.

8. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 06.01.2016, Annexure P-1 is set aside subject to surrender by the petitioner before the trial Court on or before 24.07.2023 and depositing Rs.5,000/- with the trial Court, which shall further be disbursed to the complainant forthwith and furnish his fresh bail/surety bonds. On so doing, the trial Court shall release him on bail subject to its satisfaction. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

9. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

July 13, 2023
M.Kamra

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

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