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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-51403-2023 (O&M)

Date of decision: 12.10. 2023

Amrinder Singh @ Avninder Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Naresh Jain, Advocate,
For the petitioner.

Mr. Dhruv Dayal, Addl. AG, Punjab.

ARUN MONGA, J. (ORAL)

The instant petition has been filed under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking quashing of FIR No.59 dated 11.06.2015 registered under Section 174-A of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Hathoor, District Ludhiana (Rural) as well as report under Section 173 (2) Cr.P.C (Annexure P-2) alongwith all subsequent proceedings emanating therefrom.

2. Learned counsel for the petitioner contends that FIR No.85 dated 01.07.2009 under Sections 341, 364, 148, 149, 33 read with Section 149 IPC and Sections 25 and 27 of Arms Act at Police Station Raikot, District Ludhiana. He further contends that petitioner was not named in the FIR. He faced the trial for approximately 05 years and never misused any date of hearing. In the year 2014, petitioner went to Canada and vide order dated 04.09.2015 petitioner was declared as proclaimed offender.

2.1 Learned counsel would further argue that said order was challenged before this Court vide CRM-M-8419 of 2021. Petitioner surrendered before learned trial Court and after completion of trial, he was acquitted vide

judgment dated 01.09.2021. In the trial also, petitioner was regularly appearing but he was never apprised of the pendency of instant FIR against him.

2.2 Learned counsel further contends that since petitioner has already been acquitted in the main FIR, no useful purpose would be served by keeping the present proceedings under Section 174-A of IPC pending.

3. Learned State counsel opposes the prayer made in the petition and submits that order declaring petitioner as a proclaimed person has rightly been passed. He further submits that the offence under Section 174-A IPC is independent of the main case.

4. Given the nature of order being passed, there is no necessity to issue notice to the complainant, as no serious prejudice would be caused to him. Notice to complainant is thus dispensed with.

5. Arguments heard.

6. Vide order dated 04.09.2015 passed by learned Judicial Magistrate 1st Class, Jagraon, recorded its satisfaction that the accused-petitioner had absconded, declared him as a proclaimed person and directed that intimation be sent to the concerned police station to initiate proceedings against him under Section 174-A of IPC. Aforesaid FIR was thus registered. In my opinion, the order for registering an FIR itself is not sustainable and fatal to the FIR for the reasons stated hereinafter.

7. Reference may be had to judgment rendered by me in ***Pardeep Kumar versus State of Punjab and another¹*** passed in ***CRM-M-41656-2023 (O&M) decided on 23.08.2023*** wherein I have, *inter alia*, opined that the offence under Section 174-A of IPC falls within the scope of Section 195(1) (a)(i) of the Code *ibid* which provides that no Court shall take cognizance of an offence punishable under Sections 172 to 188 (both inclusive) of the Indian Penal Code except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate.

Further, it was held that if after declaring an individual as a “proclaimed person” or “proclaimed offender,” the Court decides to proceed against him for an offence under section 174-A of IPC, it has to institute a formal written complaint in the competent jurisdictional court and that the order passed for registering FIR and the FIR so registered in such case were not sustainable in law.

8. In the present case, proceedings under Section 174-A of IPC were not initiated as per guidelines and ratio laid down in *Pardeep Kumar*’s judgment *ibid*. As an upshot, it is held that order dated 07.11.2022 passed by learned Magistrate is not sustainable on that ground alone. Neither there is any compliance of the relevant statutory requirements in letter and spirit, for declaring the petitioner a proclaimed person/offender, nor is the trial Court order in terms of the guidelines laid in *Pardeep Kumar* judgment. For the sake of brevity, the guidelines laid down in *Pardeep Kumar* judgment are not being reproduced and the same may be referred therefrom. The requisite application of mind by the Court while invoking criminal liability of the petitioner for offence under Section 174-A of IPC is also lacking herein. The said initial order dated 04.05.2019 itself which formed the basis of the registration of the FIR under Section 174-A of IPC against the petitioner and subsequent trial are bad in law.

9 As submitted by the learned counsel for the petitioner, once the petitioner has been acquitted by learned trial Court vide judgment dated 01.09.2021, the requirement for his appearance in Court also came to an end.

10. Considering the aforesaid facts and circumstances, I am of the opinion that FIR and all subsequent proceedings emanating therefrom are liable to be quashed.

11. Accordingly, FIR No.59 dated 11.06.2015 registered under Section 174-A of the Indian Penal Code, 1860 (for short ‘IPC’), at Police Station Hathoor, District Ludhiana (Rural) as well as report under Section 173

(2) Cr.P.C (Annexure P-2) along with all consequential proceedings arising therefrom against the petitioner, are quashed.

12. Petition is allowed accordingly.

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

OCTOBER 12, 2023
Shalini

(ARUN MONGA)
JUDGE

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