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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-52075 OF 2023 (O&M)
DATE OF DECISION : 13.10.2023****Nasib Singh @ Seebu****...Petitioner****Versus****State of Punjab and others****...Respondents****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**Present : Mr. B. S. Bairagi, Advocate,
For the petitioner.

Mr. Dhruv Dayal, Addl. AG, Punjab.

Mr. Viresh Dahiya, Advocate,
For respondent No.2.**ARUN MONGA, J. (ORAL)**

Learned counsel for the petitioner, at the very outset, submits that he does not press the prayer with regard to quashing of FIR No.240 dated 26.11.2003 registered under Sections 447, 427 IPC at Police Station Dharamkot, District Moga.

2. Petition herein is under section 482 Code of Criminal Procedure *inter alia* seeking quashing of impugned order dated 28.09.2012 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Moga, whereby petitioner has been declared a proclaimed offender in FIR No.240 dated 26.11.2003 registered under Sections 447, 427 IPC at Police Station Dharamkot, District Moga, Punjab. Further prayer has been made for quashing of aforesaid FIR on the ground that co-accused has already been acquitted vide order dated 15.10.2013.

3. During investigation, petitioner was declared innocent by the investigating agency and was put in column no.2. Later, during trial, he was summoned as an additional accused vide order dated 16.05.2011. On 09.06.2012, summons issued to petitioner were received back with the report

that he has gone abroad. Thereafter, vide order dated 12.07.2012, proceedings under Section 82 Cr. P.C. were initiated against the petitioner and vide impugned order dated 28.09.2012, petitioner was declared as a proclaimed offender. Consequently, FIR in question was also got registered against him.

4. Learned counsel contends that petitioner was never served with any summons or warrants of arrest. In the absence of proper service of warrants of arrest or summons on the petitioner, he cannot be declared as a proclaimed person/ offender. He further contends that petitioner has been summoned as accused after a lapse of almost seven and a half years. He shifted to Australia on 26.02.2009 and was not aware of the instant proceedings. He also submits that learned Magistrate failed to strictly follow the procedure prescribed under Section 82 of the Code of Criminal Procedure, 1973

4.1. Learned counsel further contends that vide judgment dated 15.10.2013, all the accused except petitioner have already been acquitted, therefore, no purpose would be served by keeping proceedings alive qua proclamation as well as FIR against the petitioner.

5. Notice of motion.

6. On advance service of copy of petition, learned State counsel appears and accepts notice on behalf of respondent No.1-State of Punjab and opposes the petition and submits that order declaring petitioner as a proclaimed offender has rightly been passed.

7. I have heard learned counsel for the parties and gone through the case file.

8. In the instant case, since the very purpose of initiating proceedings against petitioner under Section 82 Cr.P.C. was to ensure his presence before learned trial Court and petitioner is ready to give an undertaking before the Court that he will appear before the Court below as and when required, therefore, no useful purpose would be served to continue

offences, petitioner at the most could have been declared a proclaimed person and not proclaimed offender as has been done by learned trial Court.

9. I need not labour all over again as issue involved herein has already been dealt with by me in another case bearing CRM-M-41656-2023 titled “**Pardeep Kumar versus State of Punjab and another**”, decided on 23.08.2023. Reference may be had to judgment and the guidelines framed therein and same are not being repeated herein for the sake of brevity.

10. Accordingly, impugned order dated 28.09.2012 (Annexure P-2) declaring the petitioner as proclaimed offender is hereby set-aside subject to the condition that petitioner shall cause appearance before the Court below, within a period of two months from today.

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

OCTOBER 13, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No