

129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:160433
CRM-M-62967-2023
Date of Decision: December 14, 2023

Ashish Kumar alias Ashu ...Petitioner

Versus

State of Punjab and others ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ramandeep, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

By way of this petition under Section 482 Cr.P.C., petitioner prays to quash the order dated 23.05.2017(Annexure P-5) passed by Sub Divisional Judicial Magistrate, Samana, whereby petitioner was declared proclaimed person in case FIR No.73 dated 10.05.2015, under Section 420 IPC (Section 34 IPC added later on), registered at Police Station Sadar Samana, District Patiala.

2. Learned counsel for the petitioner has pointed out that FIR was lodged on 10.05.2015 on the basis of complaint dated 27.11.2014 as is evident from the FIR (Annexure P-1). Further attention is drawn towards the passport of the petitioner, copy of which is Annexure P-3, which contains the endorsement of VISA stamp, which would reveal that petitioner had left India on 03.12.2013. Learned counsel contends further that ever since then, petitioner has never returned to India. Thus, petitioner had left India much prior to even making of the complaint and registration of the FIR.

3. Learned counsel then further drawn attention towards the fact that when the warrants of arrest were issued against the petitioner, report was received, copy of which is Annexure P-2, to the effect that the petitioner

had already gone to America and the Serving Constable was informed that the petitioner was residing in America for the last 03 years. It is contended that despite this report, proclamation proceedings under Section 82 Cr.P.C. were issued and the petitioner was declared proclaimed person, vide impugned order dated 23.05.2017 (Annexure P-5).

4. Learned counsel contends further that later on, matter has since been compromised between the complainant and the petitioner, copy of which is Annexure P-6, which has been entered by the petitioner through his Special Power of Attorney Paramjit Singh.

5. Notice of motion.

6. Mr. Parneet Singh Pandher, AAG, Punjab accepts notice on behalf of respondent-State.

7. Learned State counsel could not refute the aforesaid contentions, which otherwise also are supported by the documentary evidence.

8. It is evident from the documents as placed on record by learned counsel for the petitioner that the petitioner was not even present in India when the FIR was registered against him. He was not in India when warrants of arrest and then proclamation proceedings were issued against him. As such, the impugned order dated 23.05.2017 (Annexure P-5) is in gross violation of Section 82 Cr.P.C. Said impugned order is hereby quashed.

Disposed of.

December 14, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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