

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

274

CRM-M-224-2024 (O&M)
DATE OF DECISION : 26.02.2024

BAL KRISHAN GARG

... PETITIONER

Versus

STATE OF PUNJAB AND ANR

... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sunpreet Singh, Advocate for the petitioner(s).

Mr. H.S. Deol, Sr. DAG, Punjab.

Mr. M.S. Rana, Advocate for respondent No.2.

SANDEEP MOUDGIL, J.(ORAL)

This is a petition under Section 482 of Cr.P.C., for quashing the order dated 14.12.2022 (Annexure P-5), passed in CHI/2259/2015 titled as 'State of Punjab vs. Bal Krishan Garg' whereby the petitioner has been declared proclaimed offender in case FIR No. 170 dated 01.05.2015 under Section 406, 420 IPC registered at P.S. Focal Point, District Ludhiana on the basis of compromise (Annexure P-6).

Learned counsel for the petitioner states that the order passed by the JMIC, Ludhiana suffers from illegality, perversity and the same is liable to be set aside as the proclamation was issued against the petitioner on 01.11.2022 and on 15.11.2022, the serving Constable suffered statement with regard to the issuance of proclamation and thus, the period of 30 days has not been elapsed. However, on 14.10.2022, the petitioner has been declared proclaimed offender by the JMIC in violation of the procedure established under Section 82 Cr.P.C.

He further contends that even though the JMIC vide order dated 14.12.2022 (Annexure P-5) has declared the petitioner proclaimed offender whereas he should have been declared as proclaimed person as Section 82 (iv) of Cr.P.C. states that only in the below mentioned Sections the person can be declared proclaimed offender :-

‘Where a proclamation published under Sub-Section(1) is in respect of a person accused of an offence punishable under Sections 302,304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459 or 460 of the Indian Penal Code (45 of 1860) and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to the effect.’

Thus, the offence for which the petitioner is charged does not fall under the categories mentioned above and had wrongly been declared as proclaimed offender.

Learned counsel for respondent No.2 submits that vide settlement deed dated 14.09.2023 (Annexure P-6), the matter has been amicably settled between the petitioner and the respondent No.2. He further submits that the petitioner has paid an amount of Rs. 18 lakhs to the respondent No. 2 and he has no objection if the present FIR is quashed on the basis of compromise between the parties.

Learned counsel for the petitioner also brings notice of the fact that a civil suit filed for specific performance of agreement to sell dated 26.07.2013 stands withdrawn by respondent No.2 vide order dated 29.09.2023 in view of the compromise dated 14.09.2023.

Heard learned counsel for the parties.

In view of the submissions made above and in light of the fact that the petitioner has wrongly been declared as proclaimed offender under Section 82(iv) of Cr.P.C. whereas he should have been declared as proclaimed person under Section 82 (i) Cr.P.C and moreover, the mandatory period of 30 days has not been complied with as on 15.11.2022, the serving Constable suffered statement regarding issuance of proclamation, whereas, before completion of 30 days period, the JMIC vide order dated 14.11.2022 declared the petitioner as proclaimed offender. Furthermore, the parties have amicably settled their dispute wherein the petitioner has paid Rs.18 lakhs to respondent No.2 in view of the compromise dated 14.09.2023.

Petition is allowed and the order dated 14.12.2022 (Annexure P-5) whereby the petitioner has been declared proclaimed offender in case FIR No. 170 dated 01.05.2015 under Section 406, 420 IPC registered at P.S. Focal Point, District Ludhiana is quashed.

(SANDEEP MOUDGIL)
JUDGE

26th February, 2024
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>