

CRM-M No.2670 of 2024

2024:PHHC:007198

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.2670 of 2024
Date of Decision: 19.01.2024

JATIN GANDHIPetitioner
Vs
STATE OF PUNJABRespondent

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Vinod K. Kaushal, Advocate
for the petitioner.

HARKESH MANUJA, J. (Oral)

- [1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing/setting aside of order dated 20.09.2023 (Annexure P-3) passed by the Chief Judicial Magistrate, Amritsar, whereby the petitioner was declared as proclaimed person.
- [2]. Briefly stating, having been implicated as an accused in FIR No.88 dated 09.04.2021 registered under Sections 188, 269 IPC at Police Station Civil Lines, Police Commissionerate Amritsar, Amritsar, petitioner was granted bail by the Trial Court vide order dated 31.03.2022 and since then he has been regularly appearing before the Court, but for 17.11.2022 followed by his non-appearance, vide order dated 27.04.2023, proclamation under Section 82 Cr.P.C. was ordered against him, resulting into declaration of his being a proclaimed person vide order dated 20.09.2023.
- [3]. Impugning the aforesaid order dated 20.09.2023, learned counsel for the petitioner submits that while declaring the petitioner as proclaimed person,

mandatory requirement under Section 82 Cr.P.C. was never complied with and thus, the same is unsustainable in law.

[4]. Notice of motion.

[5]. Upon advance notice, Mr. Shubham Kaushik, Asstt. A.G., Punjab appears on behalf of the respondent/State and vehemently opposed the prayer made on behalf of the petitioner while submitting that once having been granted bail by the Trial Court, petitioner was having complete knowledge about pendency of proceedings before the Trial Court and deliberately chose not to submit himself to the jurisdiction of the concerned Court, thereby resulting into passing of order dated 20.09.2023 by the Court below which warrants no interference.

[6]. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

[7]. Perusal of order dated 27.04.2023 passed by the Chief Judicial Magistrate, Amritsar shows that proclamation under Section 82 Cr.P.C. was ordered for 09.06.2023 being the date for appearance of the petitioner in pursuance of the said proclamation, however on 09.06.2023, the matter was adjourned for 20.09.2023; when the petitioner was declared as proclaimed person.

[8]. In the present case, undisputedly, no proclamation was ever issued by the Trial Court for the petitioner to put in appearance on 20.09.2023 and thus, the order declaring petitioner as proclaimed person on 20.09.2023 was wholly uncalled for and against the mandate of Section 82 Cr.P.C. Resultantly, the present petition is allowed and the order dated 20.09.2023 passed by the Chief Judicial Magistrate, Amritsar is set aside. However, subject to payment of cost(s) of Rs.5,000/- to be

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deposited with the District Legal Services Authority, Amritsar. Petitioner is directed to appear before the Trial Court within a period of one week from today and shall submit his bail bonds and surety bonds subject to the satisfaction of the Trial Court. In the meanwhile, no coercive steps be taken against the petitioners.

January 19, 2024
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(HARKESH MANUJA)
JUDGE

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