

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-3423-2024
Date of Decision: 23.1.2024

Jarnail Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Anatdeep Singh Sandhu, Advocate,
for the petitioner.

KARAMJIT SINGH, J.

This is a second petition under Section 482 of Cr.P.C. filed by the petitioner for quashing of impugned order dated 10.3.2016 (Annexure P-1) passed by the Court of Judicial Magistrate, 1st Class, Moga whereby the petitioner has been declared as proclaimed person in criminal case having FIR No.36 dated 26.4.2016 registered under Sections 420, 465, 468, 471, 120-B IPC at Police Station Ajitwal, District Moga.

2. Notice of motion.
3. Mr. Gurdarshan Singh, AAG, Punjab accepts notice on behalf of the State.
4. Counsel for the petitioner, while assailing the impugned order, *inter alia* contends that the petitioner was falsely implicated in the criminal case and as per the allegations recorded in the FIR, the petitioner and other accused persons fabricated one Will of Didar Singh and on the basis of the said forged Will, mutation of inheritance of Didar Singh was sanctioned in favour of Amarjit Kaur and that the petitioner signed the said Will as its

marginal witness. Counsel for the petitioner further submits that the civil suit with regard to validity of the aforesaid Will was decided by Civil Court on 30.10.2018 vide judgment Annexure P-7 and the said Will was found to be genuine and consequently, the other accused persons who faced trial were acquitted by the learned trial Court vide judgment dated 16.9.2019 (Annexure P-8). It is further submitted that at the relevant time, when the proceedings under Section 82 Cr.P.C. were initiated, the petitioner was residing in Canada and copy of his passport is available on record. He further submits that no notice or summons were received by the petitioner through Canadian Embassy with regard to pendency of the present case; that thus, the impugned order is liable to be set aside being not passed in accordance with law.

5. Present petition is opposed by the State counsel, who while supporting the impugned order, has submitted that at the relevant time, the petitioner was absconding and accordingly, the learned trial Court passed the impugned order in consonance with the provisions of Section 82 of Cr.P.C.

6. I have considered the submissions made by the counsel for the parties.

7. It appears that at the relevant time, the petitioner was staying in Canada as is evident from Annexure P-5 coupled with entries in the passport of the petitioner (Annexure P-3) and no notice or summons with regard to the present case were issued or served to the petitioner through the Embassy of the concerned country. Further, it also appears that clear 30 days notice was not issued to the petitioner for his appearance before the

Court concerned. Even on this ground, the impugned order deserves to be

set aside as per law laid down by this Court in **Ashok Kumar v. State of Haryana**, 2013 (4) RCR (Criminal) 550.

8. Consequently, the present petition is allowed and impugned order (Annexure P-1) dated 10.3.2016 is set aside subject to costs of ₹ 10,000/- to be deposited by the petitioner with District Legal Services Authority, Moga within a period of next 4 weeks. The petitioner is also directed to appear before the learned trial Court at Moga within aforesaid period of 4 weeks.

(**KARAMJIT SINGH**)
JUDGE

January 23, 2024
Paritosh Kumar

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