

**121+270-a IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Neutral Citation No. 2024:PHHC:026575
CRM-49501-2023 in/and CRM-M-10916-2021
Date of Decision: February 26, 2024**

Munish Jain

...Petitioner

Versus

Deputy Commissioner of Income Tax

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Rahul Sharma, Advocate for the petitioner.

Ms. Urvashi Dhugga, Sr. Standing Counsel with
Ms. Manisha, Advocate for respondent-Income Tax.

DEEPAK GUPTA, J.(Oral)

CRM-49501-2024

This is an application moved by the petitioner to place on record copies of the zimni orders as passed by the Trial Court as Annexure P-6 (colly).

Learned counsel for the respondent has no objection.

Allowed.

Annexure P-6 is taken on record.

Main Case

By way of this petition filed under Section 482 Cr.P.C., petitioner prays to quash the order dated 31.01.2020 (Anenxure P-5) passed by learned Chief Judicial Magistrate, Ludhiana, whereby petitioner was declared proclaimed absconder in criminal complaint No.COMA-4000/2019 dated 25.03.2019, titled as ***“Deputy Commissioner of Income Tax v. Munish Jain”***.

2. On the direction of this Court, petitioner has placed on record the copies of zimini orders as passed by the Trial Court, prior to passing

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of the impugned order. It is revealed that complaint in question was filed by the respondent before learned Chief Judicial Magistrate, Ludhiana, way back on 26.03.2019. Process against the accused (now petitioner) was directed to be issued on the same date, for 14.05.2019. The petitioner-accused was duly served for 14.05.2019, but he failed to appear. Bailable warrants were directed to be issued against him for 05.08.2019. The bailable warrants were also received back duly received for 05.08.2019, but still the petitioner failed to turn up and so warrants of arrest were directed to be issued for 23.10.2019. Report was received on 23.10.2019, as per which warrants of arrest had been conveyed to the brother of the petitioner. Petitioner still did not appear before the Court and in the circumstances, proclamation was directed to be issued for 22.01.2020. Proclamation was duly effected on 14.11.2019, but since the Serving Constable had not appeared on that day, so the matter was adjourned to 31.01.2020 and on that day, petitioner did not surrender/appear, he was declared as proclaimed absconder.

3. No doubt, impugned order dated 31.01.2020, whereby petitioner has been declared as proclaimed absconder, appears to be in violation of Section 82 Cr.P.C., because there was no proclamation for that day; whereas petitioner was not declared proclaimed absconder on 22.01.2020 for which date the proclamation had been issued, due to non receipt of report from the Serving Constable, but at the same time, this Court cannot ignore the conduct of the petitioner. Not only the fact that petitioner was duly served by way of summons and then bailable

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warrants, a perusal of the paper book would reveal that the petitioner had even applied for anticipatory bail before the Court of Sessions. Vide order dated 17.12.2019, learned Sessions Judge, Ludhiana, allowed the anticipatory bail to the petitioner, subject to the condition that he shall appear before the Trial Court on or before 04.01.2020. Petitioner did not comply with the said order and rather moved another application for seeking extension of time. That application was dismissed on 24.01.2020. Even thereafter he never surrendered before the Trial Court.

4. Having regard to the aforesaid facts and circumstances, this Court is not inclined to grant any benefit to the petitioner. He will be at liberty to surrender before the Trial Court concerned. As and when, the petitioner surrenders before the Trial Court, the Trial Court will proceed further, in accordance with law.

Dismissed.

February 26, 2024

sarita

**(DEEPAK GUPTA)
JUDGE**

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No