

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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2024:PHHC:025903
CRM-M-9856-2024
Date of decision: February 26th, 2024

Mohan Singh

.....Petitioner

Versus

Baljinder Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Inderpal Singh Parmar, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking quashing of order dated 19.12.2023 (Annexure P-4) passed by learned Judicial Magistrate 1st Class, Ludhiana, whereby the petitioner had been declared as proclaimed person in complaint CIS No.COMI/508/2019 titled as 'Baljinder Singh Versus Bhag Singh and others' under Sections 420/467/468/471/120-B of the IPC.

2. Learned counsel for the petitioner at the outset has drawn the attention of this Court to the zimni orders, which have been annexed as Annexures P-3 (colly.). In particular, learned counsel has drawn the attention of this Court to orders passed w.e.f. 18.08.2023. He submits that the petitioner had not been served as would be evident from the perusal of the said orders as it had been repeatedly observed by the learned trial Court that service upon the petitioner i.e. accused No.9 had remained unaffected on account of the complainant not giving his correct address. Learned counsel has also drawn the attention of this Court to order dated 14.11.2023 and has contended that strangely on the

said date, proclamation under Section 82 of the Cr.P.C. was effected upon the petitioner without there being any material on record to substantiate that the complainant had since provided the correct address as had been directed by the learned JMIC on the previous dates. Learned counsel submits that in the circumstances, it was evident that there had been no proper compliance of the provisions of Section 82 of the Cr.P.C. and the impugned order dated 19.12.2023 declaring the petitioner a proclaimed person had been passed in contravention of the provisions of Section 82 of the Cr.P.C. Learned counsel submits that petitioner would be satisfied if he be protected for seven days to surrender and appear before the trial Court.

3. I have heard learned counsel for the petitioner and perused the relevant material on record.

4. A perusal of the file reveals that the submissions made by the learned counsel for the petitioner are not entirely bereft of merit as the trial Court in its order dated 17.10.2023 had observed that after being granted several opportunities, the complainant had failed to provide the correct address of the petitioner. However, strangely vide the same order, petitioner was ordered to be proceeded against under Section 82 of the Cr.P.C. despite no effective notice for appearance having been served upon him.

5. In view of the above, the limited prayer made by the petitioner is accepted and the instant petition is disposed of with directions to the petitioner to appear and surrender before the trial Court within seven days from today. Till then, no coercive steps be taken against the petitioner.

6. It is made clear that in case, the petitioner fails to surrender before the trial Court within seven days from today, this order shall be of no avail to him thereafter. In case, on appearance and surrender, the petitioner moves an application for bail before the trial Court, it shall be decided expeditiously preferably on the same day, by the trial Court in accordance with law.

February 26th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No