

2024:PHHC:089354



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

285

CRM-M No.11658 of 2023 (O&M)

Date of Decision: 16.05.2024

BALDEV SINGH DHILLON

.....Petitioner

Vs

STATE OF PUNJAB AND ANOTHER

....Respondents

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

Present: Mr. Angad Parmar, Advocate for
Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Siddharth Sandhu, Asstt. A.G., Punjab.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing FIR No.86 dated 02.07.2008 registered under Sections 452, 324, 323, 326, 148, 149 IPC whereas challan presented under Sections 326, 323, 324 & 34 IPC at Police Station Kotwali, District Kapurthala besides challenge being laid to an order dated 06.11.2009 passed by the Chief Judicial Magistrate, Kapurthala.

[2]. At the very outset, learned counsel for the petitioner submits that he would not press the prayer as regards quashing of FIR as the trial has already commenced and 08 prosecution witnesses out of 09 witnesses already stands examined and as such he would confine his prayer only to the challenge made to the order dated 06.11.2009 whereby petitioner was declared as proclaimed offender.

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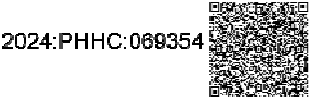


[3]. Impugning the aforementioned order, learned counsel for the petitioner submits that the declaration of petitioner as proclaimed offender was not in conformity with the mandate of Section 82 Cr.P.C. and, thus proceedings were wholly vitiated.

[4]. On the other hand, learned State counsel vehemently opposes the prayer made on behalf of the petitioner while submitting that petitioner despite having knowledge of pendency of proceedings against him, went abroad in January 2019, which resulted in his declaration as proclaimed offender and, thus the impugned order warrants no interference.

[5]. I have heard learned counsel for the parties and gone through the paper book.

[6]. In the present case, the proclamation under Section 82 Cr.P.C., issued against the petitioner was effected on 25.08.2009 for 03.09.2009 being the date of his appearance. Since period of 30 days has not elapsed on 03.09.2009, the proceedings were adjourned from 03.09.2009 to 06.11.2009 when the petitioner was declared as proclaimed offender. In such circumstances, no proclamation was effected for calling upon the petitioner to put in appearance on 06.11.2009 and declaration of the petitioner as proclamation offender on said date was wholly vitiated and against the mandate of Section 82 Cr.P.C. Moreover, in terms of order dated 11.01.2024, the petitioner has submitted himself to the jurisdiction of Trial Court and furnished and bail bonds/surety bonds which were accepted vide order dated 29.01.2024.



[7]. Resultantly, the present petition is partly allowed only to the extent the impugned order dated 06.11.2019 passed by the Chief Judicial Magistrate, Kapurthala declaring the petitioner as proclaimed offender is hereby quashed.

May 16, 2024
Atik

(HARKESH MANUJA)
JUDGE

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