

124 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11560-2024
Decided on:-11.03.2024

Charanjit PaulPetitioner..

vs.

State of Punjab and anotherRespondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr.Sanjeev Kumar Banga, Advocate,
for the petitioner.

Mr. Athar Ahmed, DAG, Punjab.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing the order dated 04.07.2022 passed by the Court of learned Judicial Magistrate Ist Class, SBS Nagar, whereby, the petitioner was declared as proclaimed person in FIR No. 66, dated 25.07.2020, under Sections 323, 324, 341, 506, 148 and 149 IPC (Section 325 IPC added later on), registered at Police Station City Banga, District SBS Nagar.

2. Having been arrayed as one of the accused in the aforementioned FIR; offence being bailable in nature, the petitioner was admitted to bail and a compromise stood effected between the parties with the intervention of respectables. Later, on account of non-appearance of the petitioner, he was declared as proclaimed person by the Trial Court vide order dated 04.07.2022.

3. Impugning the aforesaid order, learned counsel for the

petitioner submits that the non-appearance of the petitioner was neither intentional nor willful but was on account of the fact that he remained under the impression that on having arrived at a settlement between the parties, he was not required to present himself before the Court concerned.

He further submits that even the proclamation carried out under Section 82 Cr.P.C. it no-where contained any stipulation that in case, the petitioner does not appear before the Court on the date stipulated therein, he would be declared as proclaimed offender/person and thus, the proceedings against him were wholly vitiated.

4. On the other hand, learned State counsel vehemently opposes the prayer made herein while submitting that petitioner despite having complete knowledge about the pendency of the trial, chose not to present himself before the Court concerned and his non-appearance appears to be intentional and for malafide reason i.e. just to delay the trial.

5. The presence of respondent No.2 may not be required, at this stage, as the matter merely relates to adjudication upon an order whereby the petitioner was declared as proclaimed offender and even complainant-respondent No.2 has already entered into a settlement with the petitioner.

6. I have heard learned counsel for the parties and gone through the paper book.

7. A perusal of proclamation issued under Section 82 Cr.P.C. shows that the same no-where contains any stipulation that in case, the petitioner does not appear on the date fixed i.e. 04.07.2022, he would be declared as proclaimed offender/person. The purpose of proclamation under Section 82 Cr.P.C. is twin-fold. Firstly, to inform the accused about the

pendency of proceedings against him/her and to grant him/her an opportunity to appear before the Court and secondly, to intimate him/her that in case, he/she does not appear he/she would be declared as proclaimed person/offender.

Further perusal of proclamation shows that though heading contains stipulation that the proclamation required the appearance of the petitioner/accused in terms of Section 82 Cr.P.C., however, the same nowhere recorded that in case of his non-appearance, he would be declared as proclaimed offender/person. Moreover, the parties have already entered into a settlement and based thereupon, even the other co-accused have already been acquitted vide judgment dated 30.01.2023 (Annexure P-13) passed by the Court of Judicial Magistrate Ist Class, SAS Nagar as the complainant did not support the prosecution version.

8. In view of the facts and circumstances discussed herein above, the petition is allowed and the impugned order dated 04.07.2022 declaring the petitioner as proclaimed person, is hereby set aside.

9. The petitioner is directed to appear before the trial Court within a period of 7 days from today and furnish his bail/surety bonds, which shall be accepted subject to its satisfaction.

10. The aforesaid order is subject to payment of costs of Rs.5,000/- to be deposited with the District Legal Services Authority, Shaheed Bhagat Singh Nagar, Punjab, within a period of two weeks from today.

11.03.2024
sonika

(HARKESH MANUJA)
JUDGE

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