

**125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Neutral Citation No. **2024:PHHC:038895**
CRM-M-12729-2024
Date of Decision: March 19, 2024

Maheshwari Prasad Mishra **...Petitioner**

Versus

Income Tax Officer **...Respondent**

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Mohit Soni, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is to quash/set aside the order dated 16.02.2024 (Annexure P-5), whereby warrants of arrest have been issued against the petitioner; and the order dated 29.02.2024 (Annexure P-6), whereby proclamation under Section 82 Cr.P.C. had been issued against the petitioner by learned Chief Judicial Magistrate, Faridkot, in complaint case No.COMA-182-2018, titled as ***“Income Tax Officer v. Maheswari Prasad Mishra”***.

2. Perusal of the paper book would reveal that summoning order against the petitioner was passed on 16.11.2018, asking the petitioner to face trial under Section 276-C(1), 276-C(2), 277 of the Income Tax Act, 1961. Order dated 19.01.2024 (Annexure P-3) would reveal that notice issued to the accused i.e. petitioner was not received back and so bailable warrants were directed to be issued for 31.01.2024. As per order dated 31.01.2024, bailable warrants were not received back and fresh bailable warrants were directed to be issued from 16.02.2024. Again bailable warrants were not received back, as per order dated 16.02.2024 (Annexure P-5) and straightway, warrants of arrest were

directed to be issued for 29.02.2024. The order dated 29.02.2024 (Annexure P-6) would reveal that without noticing as to whether the warrants of arrest had been received back or not and if received back what was the report, the Court directed to issue the proclamation under Section 82 Cr.P.C. for 25.04.2024.

3. As rightly contended by learned counsel for the petitioner, the impugned orders are *per se* illegal. Learned Chief Judicial Magistrate, Faridkot did not bother to see as to whether the notice or the bailable warrants or warrants of arrest had ever been served upon the petitioner-accused or not and straightway, preferred to issue proclamation under Section 82 Cr.P.C. without even recording any satisfaction, as required under Section 82(1) Cr.P.C. as to whether the petitioner was concealing himself intentionally or had absconded.

4. As such, without issuing any notice to the respondent, lest it may delay the proceedings before the Trial Court concerned, the impugned orders are hereby set aside. The petitioner is hereby directed to surrender before the Trial Court concerned on or before 25.04.2024, the date already fixed thereat. Till then, in case petitioner is sought to be arrested, he shall be admitted to the interim bail to the satisfaction of arresting officer.

Disposed of.

March 19, 2024
sarita

(DEEPAK GUPTA)
JUDGE

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