



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

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**CRM-M No.16570 of 2024
Date of decision : 5.7.2024**

Gurdial Singh @ Monu**.....Petitioner****Versus****State of Punjab and another****.....Respondents****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Ms. S. G. Kapila, Advocate, for the petitioner

Mr. Rajiv Verma, DAG, Punjab

SANDEEP MOUDGIL, J (ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.13 dated 23.1.2007, under Sections 307, 325, 34 of the Indian Penal Code, 1860, registered at Police Station Mukerian, District Hoshiarpur (Annexure P-1) alongwith charges framed, and order dated 5.7.2011 (Annexure P-6). It is further prayed that the order dated 5.7.2011 be stayed during the pendency of the present petition.

2. Learned counsel for the petitioner would contend that the petitioner has actually went abroad on 5.10.2010 and that too only after compromise effected between the parties on 21.4.2010 to which the present petitioner was a party. It was under that *bona fide* belief he left the country and the proceedings initiated at his back were not in his knowledge, whereby on 5.7.2011 (Annexure P-6), the petitioner was declared a proclaimed offender and the trial was concluded qua 2 accused persons holding them guilty and convicted. But on account of non-



appearance of the petitioner, the trial is pending and Investigating Agency could not file final report under Section 173 Cr.P.C.

3. Learned State counsel, on the other hand, has submitted that the petitioner despite the proclamation had failed to appear before the trial Court and have been rightly declared proclaimed offenders vide the impugned order. And in addition the petitioner is evading the process of court for the last more than 13 years which is highly deprecated on his part and he did not comply with the orders of the court which shows that the he has no respect for the courts order and a person who obstructs the process of law and evades from it does not deserves any concession.

4. Heard respective counsels for the parties

5. According to the petition's allegations, the petitioner was living Abroad since 5.10.2010 that too after compromising the matter. According to Section 82 of the Criminal Procedure Code, a proclamation may be issued against an individual by the Court if it is reasonably believed that the person for whom a warrant has been issued has absconded or is hiding, making it impossible for the warrant to be carried out.

6. A person cannot be said to be “abscond” or “evade” the execution of warrant when he had gone to a distant place before the issue of the warrant. Dependence may be made on the case of **“M.S.R. Gundappa v. State of Karnataka”** (1977 Cr LJ NOC 187), wherein it was held that a person who had gone abroad even before the issue of the warrant of arrest cannot be said to be absconding or concealing himself with the intention to disrupt the execution of that warrant.



7. Additionally, the ruling can be supported by the judgment of our own court in CRM-M-1513-2009 titled as “**Mehar Singh And Anr. v. State of Punjab**” wherein it was held as under:

In the present case, since the petitioners were already residing in Canada before the registration of FIR in question i.e. since the year 1997, there was no occasion for them to conceal themselves or abscond. A perusal of order dated 7-10-2008 (Annexure P-10) and order dated 21-12-2007 (Annexure P- 4) does not reveal that the petitioners were ever attempted to be served in Canada especially when there was no material on record that the petitioners had left the country after the registration of FIR in question with a view to abscond or conceal themselves. Rather in the inquiries conducted by the police, the petitioners were found to be innocent because the alleged papers in question were prepared in Canada. Thus, the petitioners were declared proclaimed offenders in violation of Section 82, Criminal Procedure Code. Accordingly, the impugned order dated 7-10-2008 (Annexure P-10), whereby the petitioners were declared proclaimed offenders, is set aside.

8. Coming back to the present case in hand wherein from the perusal of the case file as well from the support of the documents it can be inferred that petitioner was in abroad since 2010 after compromising the matter. Therefore, the petitioner had no occasion to abscond or evade the process intentionally as he was under the impression that after compromise, the matter has been ended, and he has no knowledge about the proceedings initiated at his back.

9. Therefore in light of the judicial dictums and observations made, the impugned order dated 5.7.2011 (Annexure P-6) vide which the petitioner was declared proclaimed offender is bad in law and is hereby quashed.

10. Further, learned counsel for the petitioner do not press the petition qua the prayer to quash the FIR No.13 dated 23.1.2007 alongwith order vide which the charges were framed and seeks withdrawal of the petitioner with liberty to approach the Court availing appropriate remedies as per law.
11. Prayer is accepted.
12. Dismissed as withdrawn with liberty prayed for.

(SANDEEP MOUDGIL)

JUDGE

5.7.2024

Ashwani

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No