

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28852-2016 (O&M)
DECIDED ON: 22.02.2024.

KARAMJIT SINGH
.....PETITIONER
VERSUS
STATE OF PUNJAB AND ANR
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Tanvir Singh Attarwali, Advocate
for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking quashing of FIR no. 63, dated 03.06.1999, under Sections 323, 324, 326, 342, 148, 149, 120-B and 427 IPC, registered at Police Station Banga, District SBS Nagar and all the subsequent proceedings arising therefrom with further prayer to quash the impugned order dated 17.10.2011 (Annexure P-7).
2. Learned counsel for the petitioner has confined his prayer only for quashing of the impugned order dated 17.10.2011 (Annexure P-7), vide which, the petitioner was declared proclaimed offender on account of his absence from the trial Court. The petitioner was summoned earlier vide order dated 04.04.2007 (Annexure P-2) and subsequently vide order dated 20.10.2010 (Annexure P-3) passed in an application under Section 319 Cr.P.C.
3. It has been vehemently argued by learned counsel for the petitioner that the afore-said FIR stands registered on 02.06.1999 at the behest of Harvinder Singh, thereafter, consequent on investigation, challan was filed by the investigating

agency on 29.09.1999, wherein, the petitioner was found innocent and was placed in column No.2 and subsequently, after filing of challan he was summoned for the first time vide order dated 04.04.2007 (Annexure P-2). The said order was challenged before this Court vide CRM-M-29156-2007. Vide order dated 25.02.2009, the order dated 04.04.2007 was set aside and the case was remitted back to the trial Court. Thereafter, again vide order dated 20.10.2010 (Annexure P-3), the petitioner was again summoned on an application under Section 319 Cr.P.C.

4. The contention of learned counsel for the petitioner is that the petitioner has already left the country in the year 2000 and has settled in United State of America and is permanent citizen there. The impugned order has been passed at the back of the petitioner without following the due process of law. From perusal of the proceedings before the trial Court, which were commenced in the absence of the petitioner, it is crystal clear that the petitioner was not at all aware of the same, as he was residing in USA since 2000. Thus, the trial Court while passing the impugned order has not properly complied with the provisions as envisaged under Section 82 Cr.P.C. The petitioner went to abroad in the year 2000 under the *bona fide* impression that the matter has come to an end, as he has been declared innocent being falsely involved in the matter and since then he has never been to India. It is on these assertions, learned counsel for the petitioner submits that the impugned order is bad in the eyes of law and is not tenable.

5. Heard.

6. From the perusal of case file, it is revealed that all the other co-accused already stands acquitted by the trial Court and in case present, if the trial is held, it is likely to result in acquittal, as the complainant namely Harwinder Singh being the victim appeared as PW-11 and has categorically denied the presence of

the petitioner, as is evident from his statement as well as cross-examination which is annexed with the present petition as Annexure P-8.

8. In view of the discussions made hereinabove and considering the following judicial pronouncements: ***“Deepak vs. State of Punjab” , 2015 (6) RCR 353; Kulwant Singh vs. State of Punjab and another; 2011 (2) RCR (Criminal) 649; Surjit Singh vs. State of Punjab and another; 2011 (7) RCR (Criminal) 2500; Niketen Duggal vs. State of Delhi; 2014 (4) JCC 2714;*** this Court is fully convinced that the impugned order 17.10.2011 (Annexure P-7) has been passed at the back of the petitioner when he was not in India, since he is residing in USA and is a permanent citizen of USA, is not tenable as per law, as such the same is set aside.

22.02.2024

Sham

(SANDEEP MOUDGIL)
JUDGE

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