

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

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**Criminal Misc. No. M-16571 of 2024 (O & M)
Date of decision :-05.04.2024**

Gaurav Madan**.....Petitioner**

Versus

State of Punjab and another**.....Respondents**

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Mandeep Singh Sachdev, Advocate
for the petitioner.

NIDHI GUPTA J. (Oral)

Prayer in this petition is for quashing of impugned order dated 13.4.2018 (Annexure P-1) passed by the Judicial Magistrate 1st Class, Jalandhar, vide which petitioner has been declared as Proclaimed Person in case bearing FIR No.25 dated 28.4.2017 (Annexure P-3) under Sections 406 and 498-A IPC, registered at Police Station Women, District Police Commissionerate, Jalandhar.

Learned counsel for the petitioner submits that the petitioner was married to the complainant/respondent No.2 herein on 16.1.2016. It was the second marriage of both the parties. Thereafter, that due to matrimonial discord, the parties separated and the complainant filed the present FIR (Annexure P-3) against the petitioner. It is stated that in the FIR, at page 24 of the paper-book, the complainant has herself mentioned that, at the time of registration of FIR on 28.04.2017, the petitioner was “*presently residing in*

Dubai....”. Learned counsel for the petitioner in this regard refers to E-Visa (Annexure P-4), as per which, it is evident that the petitioner entered Dubai on 08.10.2016. It is stated that the petitioner was employed as a Cook there and the impugned proclamation has been issued against the petitioner while he was abroad. Learned counsel contends that the provisions of Section 82 and 105 Cr.P.C. have not been complied with in the present case. It is further stated that in the meantime the complainant has taken ex-parte divorce from the petitioner under Section 13 of Hindu Marriage Act, 1955 as is evident from the decree dated 20.09.2023 (Annexure P-9). Learned counsel states that the petitioner has now lost his job in Dubai and returned to India on 31.1.2024. Learned counsel for the petitioner submits that the petitioner wants to join the proceedings before the learned trial Court and he apprehends that in case he appears to do so, he can be arrested. In support of his submissions, learned counsel for the petitioner relies upon *Sukhman Singh vs. State of Punjab and another 2023(2) RCR (Criminal) 895* and *Sandeep Singh Gill vs. State of Punjab and another 2024(1) RCR (Criminal) 840*.

Notice of motion.

On asking of the Court, Mr. Kunwarbir Singh, AAG, Punjab accepts notice on behalf of respondent-State and opposes the prayer made in the petition.

In view of the aforesaid submissions, the impugned order dated 13.4.2018 (Annexure P-1) is hereby set aside and the petitioner is directed to surrender before the learned trial Court concerned within 15 days from the date of passing of this order. In case, the petitioner

surrenders before the trial Court within the stipulated time and furnishes an application for bail, he may be released on bail on the same day on furnishing of requisite bail bonds and surety bonds to the satisfaction of the learned trial Court.

The petition stands disposed of.

April 05, 2024
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No