

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-21313 of 2021
Date of Decision: January 18, 2024

Dalbir Singh

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present:- Mr. H.S. Randhawa, Advocate
Mr. Parveen Sharma, Advocate and
Mr. Jaiveer Singh, Advocate
for the petitioner

Mr. Vikas Bhardwaj, AAG Haryana

Harpreet Singh Brar, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 485 dated 14.08.2020 registered at Police Station Assandh, District Karnal under Section 19 of the Haryana Panchayati Raj Act, 1994 and Section 406 IPC (Annexure P-1) alongwith consequential proceedings emanating therefrom including order dated 14.12.2020 (Annexure P-15) whereby the petitioner has been declared as proclaimed person.
2. Learned counsel for the petitioner at the very outset produced order dated 24.11.2023 passed by Civil Judge (Jr. Division)-cum-Judicial Magistrate 1st Class, Assandh. Learned counsel submits that after conclusion of the investigation, the investigating agency has prepared the cancellation report and the same was submitted before the concerned jurisdictional Magistrate and it is pending consideration before the learned Judicial Magistrate 1st Class, Assandh.

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As such first prayer with regard to quashing of the FIR (supra) has become infructuous at this stage. However, order dated 14.12.2020 (Annexure P-15) vide which the petitioner has been declared as proclaimed person is set aside in view of the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** wherein it has held that the Court is first required to record its satisfaction before issuance of process under Section 82 Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in ***Sonu vs. State of Haryana 2021 (1) RCR (Cri.) 319***, it has been held that the conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory in nature. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation as nullity.

3. The petitioner is directed to appear before the trial Court within a period of four weeks from today and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court.

4. The petition is disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

January 18, 2024

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No