

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

114

Criminal Misc. No. M-21058 of 2024

Date of decision :-30.04.2024

Nirmal Singh Jhajj

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sunil Agnihotri, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

NIDHI GUPTA J. (Oral)

By way of filing the present petition under Section 482 Cr.P.C., the petitioner seeks quashing of impugned order dated 17.09.2022 (Annexure P-6), passed by the learned Chief Judicial Magistrate, SBS Nagar, declaring the petitioner as proclaimed person in case FIR No. 0243 dated 18.11.2021 (Annexure P-1) registered under Sections 406, 498-A and 120-B IPC at Police Station Nawanshahar, District Shaheed Bhagat Singh Nagar (SBS Nagar).

Learned counsel for the petitioner, *inter alia*, submits that present FIR emanates from the matrimonial dispute between the parties. Petitioner-Nirmal Singh Jhajj, is the father-in-law of complainant/respondent No.2. Marriage of Sharanjit Singh/son of the petitioner with complainant/respondent No.2 was solemnized on 10.03.2018. Due to misrepresentation on behalf of respondent No.2-complainant, her marital relations with the son of petitioner have gone into rough weather, on account of which respondent No. 2 had lodged the aforesaid FIR (Annexure

P-1) against her husband, father-in-law/petitioner and mother-in-law, on the basis of false and fabricated allegations qua demand of dowry and maltreatment. It is submitted that the petitioner is stated to have left India and is residing abroad since 06.10.2021 and returned back to India only on 06.02.2024, as is evident from the copy of passport (Annexure P-2). Even, he was not present in India at the time of registration of aforesaid FIR on 18.11.2021, nor at the time of passing of impugned order dated 17.09.2022 (Annexure P-6) declaring him as proclaimed person.

Qua illegality of impugned order dated 17.09.2022 (Annexure P-6) declaring the petitioner as proclaimed person, learned counsel submits that in the *zimni* order dated 16.07.2022 (Annexure P-5, Colly.) the learned trial Court has specifically mentioned therein that “*warrants of arrest of accused returned unserved with the report that he is not residing at the given address and village for the last one year....*”, but despite that the learned trial Court vide order impugned herein has wrongly declared the petitioner and his co-accused i.e. his son and wife as proclaimed persons, without complying with the mandatory provisions of Section 82 Cr.P.C. It is submitted that qua the co-accused wife of the petitioner, the impugned order dated 17.09.2022 has already been set aside by this Court vide order dated 25.04.2024 in CRM-M-20360-2024. Learned counsel for the petitioner submits that the petitioner is ready and willing to surrender before the learned trial Court to attend the trial proceedings and, therefore, requests that the impugned order dated 17.09.2022 (Annexure P-6) may be set aside.

Notice of motion.

On the asking of Court, Mr. Kunwarbir Singh, AAG, Punjab, Punjab, accepts notice on behalf of respondent No. 1-State.

I have heard learned counsel for the parties and gone through the case file.

At this stage, reference may be made to the judgments in *Nitin Jindal vs. State of Punjab and another, 2023(1) RCR (Criminal) 364* and *Amandeep Singh and others vs. Sate of Punjab and another, 2018(2) Cri. CC 162*, wherein co-ordinate Benches of this Court have held that order of proclamation can be set aside, when proclamation proceedings are initiated while proclaimed offender is not in India.

In view of the above and keeping in view the totality of the facts and circumstances of the case, but without commenting upon the merits of the case, the impugned order dated 17.09.2022 (Annexure P-6), declaring the petitioner to be proclaimed person and all subsequent proceedings arising therefrom are ordered to be set aside. The petitioner is directed to surrender before the learned trial Court/Duty Magistrate within a fortnight on 15.05.2024, and move an application for regular bail, which shall be considered and disposed of by the learned trial Court/Duty Magistrate on the same day, by accepting fresh bail/surety bonds to be furnished by the petitioner to the satisfaction of the trial Court/Duty Magistrate.

The instant petition stands disposed of, accordingly.

April 30, 2024
Vijay Asija

(NIDHI GUPTA)
JUDGE

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