



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20750-2024 (O&M)
Date of order: 10.07.2024

Sandeep Singh
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present:- Ms. Harmeet Kaur Chanan, Advocate
for the petitioner(s).
Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
62	2.8.2012	Khalchain, Police District Amritsar (Rural)	307, 323, 324, 325, 326, 148, 149 IPC and 25 & 27 Arms Act

1. Aggrieved by order dated 12.9.2022 (Annexure P-3) passed by Additional Sessions Judge, Amritsar, in Criminal case No.SC/2347-2013 in the FIR captioned above, vide which he has been declared as a Proclaimed Offender, the petitioner has come up before this Court under Section 482 CrPC on 23.4.2024.

2. Counsel for the petitioner contends that the petitioner was granted regular bail by this Court vide order dated 6.9.2023 passed in CRM-M-1613-2013 and thereafter, he went abroad in order to earn livelihood. However, the trial Court vide order dated 12.9.2022 declared him proclaimed offender. He submits that the petitioner is 35 years of age and only bread winner of his family and had went abroad only to earn livelihood and thus, he could not appear before the trial Court. The petitioner came back to India on 19.07.2023 and since then he is in custody. He further submits that non-appearance of the petitioner was unintentional, without any endeavor to delay the trial, and due to factors beyond the petitioner’s control. He further submits that co-accused of the petitioner stands acquitted vide order dated 31.7.2023 (Annexure P-4). However, now, in case the petitioner is released on bail he undertakes to appear before the trial Court



on each and every date. He seeks quashing of the order mainly on the ground that affixation was made on his Indian residence, despite the fact that he was out of country.

3. State's counsel submits that the petitioner absented from the proceedings before the trial Court without any intimation and thereafter, he could not be arrested or produced before the Court despite issuance of bailable and non-bailable warrants of arrest and ultimately, he was declared proclaimed offender.

4. There is no dispute that the petitioner was aware of the pendency of the trial, and despite that, he did not appear before the Court.

5. Be that as it may, the primary reason to quash the proclamation orders was when the petitioner was not in India despite affixations being made in their Indian address.

6. Another reason to quash the proclamation is the statutory provision of Section 105 CrPC. It shall be relevant to extract Section 105 of CrPC, 1973, which reads as follows:

“105. Reciprocal arrangements regarding processes. —
 (1) Where a Court in the territories to which this Code extends (hereafter in this section referred to as the said territories) desires that—
 (a) a summons to an accused person, or
 (b) a warrant for the arrest of an accused person, or
 (c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or
 (d) a search-warrant, issued by it shall be served or executed at any place,—
 (i) within the local jurisdiction of a Court in any State or area in India outside the said territories,
 it may send such summons or warrant in duplicate by post or otherwise, to the presiding officer of that Court to be served or executed; and where any summons referred to in clause (a) or clause (c) has been so served, the provisions of section 68 shall apply in relation to such summons as if the presiding officer of the Court to whom it is sent were a Magistrate in the said territories;
 (ii) in any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and send to such authority for transmission, as the Central Government may, by notification, specify in this behalf.]



(2) Where a Court in the said territories has received for service or execution—

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or

(d) a search-warrant, issued by—

(I) a Court in any State or area in India outside the said territories;

(II) a Court, Judge or Magistrate in a contracting State, it shall cause the same to be served or executed] as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where—

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 80 and 81,

(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by section 101:

[Provided that in a case where a summons or search-warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search-warrant through such authority as the Central Government may, by notification, specify in this behalf.

7. Thus, there is nothing to demonstrate that the State had either complied with the statutory provisions of Section 105 CrPC or were not required to comply with such provisions.

8. A perusal of the said statement reveals that the prosecution is complying with the provisions of Section 82 & 105 CrPC. Section 82 CrPC provides that affixation must be made where the petitioner resides. Given above, the proclamation was not affixed in terms of section 82 (2) (i) (a) & (b) of CrPC, which mandate that the proclamation shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides; and it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village. None of these conditions were complied with, and the non-adherence to the procedure has rendered the proclamation illegal.

9. Now, the petitioner is in custody and he surrenders to the majesty of Court and nothing survives in the order of proclamation except offshoot of the same, if any. There is no averment in the petition *qua* registration of FIR under Section 174-A IPC nor there is any challenge to such FIR.



10. In the entirety of facts and circumstances peculiar to this case, the present petition is allowed, and proclamation orders are quashed and set aside. Petitioner is at liberty to challenge the FIR, if any registered pursuant to the impugned order. All pending miscellaneous applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

July 10, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No