

BALVINDER KAUR LOEI ALIAS BALWINDER KAURPetitioner

Versus

STATE OF PUNJAB AND ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Angad Parmar, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, challenge has been laid to an order dated 11.12.2017 passed by the Court of learned Judicial Magistrate First Class, Kapurthala whereby, the petitioner has been declared as proclaimed person.

2. Having been arrayed as one of the accused in FIR No.104 dated 09.10.2014 registered under Sections 323, 324, 325, 295, 148 and 149 of IPC at P.S. Subhanpur, District Kapurthala, the petitioner on account of her non-appearance was declared as proclaimed person vide order dated 11.12.2017.

3. Impugning the same, learned counsel for the petitioner submits that proceedings against the petitioner declaring her as proclaimed person was not in consonance with the mandate of Section 82 of CrPC besides she being resident of United Kingdom, no effort was ever made to serve her through the concerned consulate and thus, the proceedings initiated against her were bad in law.

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4. On the other hand, learned State counsel vehemently opposes the prayer made herein while submitting that despite having complete knowledge of pendency of FIR, the petitioner deliberately chose not to appear before the trial Court thereby, resulting into passing of impugned order which warrants no interference.

5. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner. At this stage, presence of respondent No.2 may not be required as declaration of petitioner as proclaimed person primarily relates between her and the Court concerned.

6. A perusal of order dated 06.10.2017 shows that the proclamation under Section 82 of CrPC was issued for 13.11.2017, awaiting presence of the accused, however, on 13.11.2017, the matter was adjourned to 11.12.2017 as 30 days' period as prescribed under Section 82 of CrPC had not expired. Subsequently, on 11.12.2017, on account of her non-appearance, the petitioner was declared as proclaimed person. A further perusal of record shows that for 11.12.2017, no proclamation was ever issued by the trial Court, in terms of Section 82 of CrPC awaiting the presence of the petitioner, rather proclamation under Section 82 of CrPC was issued for 13.11.2017 and thus, the petitioner by any stretch of imagination could not have been declared as proclaimed person vide order dated 11.12.2017 for which there was no proclamation ever effected. Moreover, the petitioner has already submitted herself to the jurisdiction of the trial Court in terms of

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order dated 03.05.2023 and she continued to appear before the trial Court.

7. Accordingly, in view of the discussions made hereinabove, the present petition is allowed and impugned order dated 11.12.2017 as well as consequential proceedings resulting into registration of FIR No.104 dated 09.10.2014 are hereby quashed. The aforesaid order shall however be subject to payment of costs of £200 GBP to be deposited with Poor Patients’ Welfare Fund, PGIMER, Chandigarh within a period of 15 days from today.

8. Pending application(s), if any, shall also stand disposed of.

05.03.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>

