

123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22794-2024
DECIDED ON:16.05.2024

SUCHA SINGH
...PETITIONER
VERSUS
STATE OF PUNJAB AND OTHERS
...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Simranjeet Singh, Advocate
for the petitioner (through VC).

SANDEEP MOUDGIL, J.

1. The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking quashing of orders of attachment and sale of property (Annexures P-2 & P-3) issued in case FIR No. 10, dated 21.05.2014, under Sections 406, 420 and 120-B of the Indian Penal Code, 1860, registered at Police Station NRI Nawanshahar, SBS Nagar.
2. The factual matrix of the case is that on 12.02.2016 application for attachment of property of accused was moved by the prosecution but on 06.08.2016 Sucha Singh-petitioner, through his attorney filed an application for permission to conduct the trial in absence of accused by condoning the personal presence of accused and drop the attachment proceedings and to set aside the order of proclamation and to dismiss the application for attachment of property of accused moved by the prosecution. The said application was dismissed vide order dated 17.05.2017 and the property of the accused Sucha Singh was ordered to be attached. In compliance of the afore-said



order, the property of the accused Sucha Singh was attached on 04.09.2017

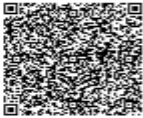
3. Vide order dated 30.07.2019, the objections filed by the accused Sucha Singh was dismissed and application for sale of property of Sucha Singh was allowed and property of Sucha Singh was ordered to be sold and intimation along with documents was sent to the District Collector Hoshiarpur and case was adjourned to 14.08.2019 for further proceedings. Thereafter on dated 20.08.2019 file was consigned to record room after due compliance. The proclamation order dated 16.03.2015 was set aside by this Court vide order dated 15.03.2024 passed in CRM-M-6246-2017.

4. It has been contended by learned counsel for the petitioner that the petitioner was erroneously declared proclaimed offender. The assertion is that the order dated 16.03.2015 whereby, the petitioner was declared proclaimed offender has already been quashed/set aside by this Court vide order dated 15.03.2024 passed in CRM-M-6246-2017. It is further asserted that once the PO order has been quashed by this Court, the proceedings ensuing therefrom also lapse and are void *ab initio*.

5. Heard.

6. It is undisputed fact that Sucha Singh filed an application for recalling the order of attachment and sale of property and the same is fixed for 19.07.2024 for filing reply to the application by the prosecution.

7. Since the property of accused was already attached at the time of declaring him proclaimed offender and thereafter the property was sold and Sucha Singh filed objections which were already dealt by the trial Court and application for sale of property of Sucha Singh was allowed and intimation was sent to concerned District Collector and file was consigned



to record room on 20.08.2019.

8. From the record, it is evident that the petitioner has already filed an application before the trial Court for recalling of the order of attachment and sale of property of the petitioner, which is still pending adjudication, meaning thereby, the petitioner has approached this Court in hasty manner without even waiting for the passing of the order in the afore-said application. Moreover, it is evident that though the property has already been sold and attached as per the provisions of Cr.P.C., the Magistrate has no power to recall its own order and the appropriate remedy lies before the Appellate Authority.

9. In view of the discussions made hereinabove, this Court is of the view that no order is required passed at this stage. As such the same is dismissed.

10. However, the petitioner would be at liberty to avail remedy as per law.

(SANDEEP MOUDGIL)
JUDGE

16.05.2024

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Whether speaking/reasoned Yes/No

Whether Reportable Yes/No