



CRM-M-26842 of 2024

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26842 of 2024(O&M)
Date of Decision: 27.05.2024

Sukhpreet Singh
...Petitioner

Versus

State of Punjab
...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. A.S. Sandhu, Advocate
For the petitioner.

KARAMJIT SINGH, J.

1. Present petition has been filed by the petitioner seeking quashing of order dated 13.09.2023 (Annexure P-1) passed by the Court of Sub Divisional Judicial Magistrate, Bagha Purana, vide which the petitioner was declared as proclaimed offender in a criminal case bearing FIR No. 32 dated 09.03.2019 (Annexure P-2) under Section 324/ 34 IPC at Police Station Bagha Purana, District Moga.

2. The counsel for the petitioner submits that at the relevant time the petitioner was not available in India as is evident from the order dated 30.11.2022 (Annexure P-6) passed by the learned trial Court coupled with copy of the passport of the petitioner. The counsel for the petitioner further submits that no valid personal service of the petitioner was effected through Embassy of India located in Canada. It is further submitted that during investigation of the case petitioner was declared innocent but lateron



summoned as an additional accused and thus the petitioner was not aware of pendency of the aforesaid criminal case. It is further submitted that even otherwise proper procedure was not followed by the trial Court while passing impugned order(Annexure P-1) and the same is not sustainable and deserves to be set aside.

3. Notice of motion.

4. Mr. J.S. Dhaliwal, AAG Punjab accepts notice of behalf of State and submits that the petitioner failed to respond to the notices/ summons and warrants issued by the trial Court and consequently declared as proclaimed person vide order (Annexure P-1). However, the State counsel has not disputed the fact regarding passing of order dated 30.11.2022 (Annexure P-6) by the learned trial Court.

5. I have considered the submissions made by counsel for the parties.

6. It is not disputed that the petitioner who was named in the FIR was found innocent during investigation and was later on summoned as an additional accused by the trial Court. From the perusal of Annexure P-6 dated 30.11.2022 it appears that prior to initiation of proceedings under Section 82 Cr.P.C., summons were sent to the petitioner and the same were received back with report that petitioner has gone abroad. Thus, making it clear that at the relevant time the petitioner was not available in India. There is nothing on record to show that the learned trial Court ever made any effort to effect personal service of the petitioner through the Embassy of India



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Further, from the perusal of Annexure P-6 (Colly.), it appears that minimum statutory period of 30 days was not given to the petitioner to appear before the Court concerned with effect from the date on which proclamation against him was published. Thus, making it clear that the impugned order was not passed in consonance with the mandate of Section 82 Cr.P.C. and is not sustainable in the eyes of law.

7. In the light the above, without expressing any opinion on the merits of the case impugned order dated 13.09.2023 (Annexure P-1) is hereby quashed. Petition stands allowed accordingly.

27.05.2024
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No