

CRM-M-28196-2023 (O&M)
Date of Decision: 24.01.2024

ABHISAR

.....PETITIONER

Vs.

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sushil Sheoran, Advocate, for the petitioner.
Ms. Mayuri Lakhanpal, D.A.G. Haryana.

HARPREET KAUR JEEWAN J. (ORAL)

1. This petition has been filed under Section 482 Cr.P.C. for quashing of the impugned order dated 05.03.2020 (Annexure P-9) and FIR No. 682, dated 25.11.2020, registered at Police Station City, District Bhiwani, under Section 174-A of the IPC (Annexure P-10) and all other subsequent proceedings arising therefrom.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been declared as a Proclaimed Person on 05.02.2020 (Annexure P-9) without following due procedure. The proclamation dated 20.12.2019 (Annexure P-6) was issued by the learned Chief Judicial Magistrate, Bhiwani and the statement of the serving official was recorded on 05.02.2020 (Annexure P-7). The said proclamation was issued at the address “Abhisar S/o Ashok Kumar R/o Khadi Mohalla Kiwanis”, whereas the petitioner was residing at Indore at that point of time as per the Residence Certificate Annexure P-12.

3. He further contends that in pursuance to the order dated 31.05.2023 passed by this Court, the petitioner has appeared before the trial Court and even the charge has been framed against the petitioner by the trial Court, vide order dated 02.07.2021. Thereafter, the petitioner has been regularly appearing on each and every date as per Annexures P-4 to P-10 which are sought to be attached in the connected petition bearing No. CRM-53238-2023 in/and CRM-M-17249-2021, which is also listed today.

4. The State has not raised any objection to the contentions that charges have been framed by the trial Court and the petitioner is regularly appearing in the trial Court.

5. I have considered the aforesaid contentions.

6. The petitioner was declared to be a proclaimed person. No notice was served to the petitioner at his address in District Indore. As per the Resident Certificate Annexure P-12, the address of the petitioner has been recorded as under:-

“Abhisar son of Ashok Kumar resident of 1/5
Juniyar MIG Bajarang Nagar Near Choti Bhamori Indore
Kasba Indore 1, Kasba Indore 1, Juni Indore, District Indore
(Madhay Pardesh).

7. As per the proclamation issued under Section 82 Cr.P.C. (Annexure P-6) it was issued at the address at “Abhisar S/o Ashok Kumar R/o Khadi Mohalla Kiwanis”. The statement of the serving Head Constable recorded by the Chief Judicial Magistrate on 05.02.2020 (Annexure P-7). At the time of service of the proclamation, the petitioner was not found present at home and copy was handed over to his father and one copy was affixed at

the house situated in Mohalla Kiwanis. Since the publication has not been served at the address where the petitioner was residing and now he has caused appearance before the trial Court and thereafter, he is regularly appearing, as such, the impugned order dated 05.03.2020 (Annexure P-9) and the consequential FIR registered against the petitioner under Section 174-A of the IPC, i.e. FIR No. 682, dated 25.11.2020, under Section 174-A, registered at Police Station City, District Bhiwani, are liable to be set aside.

8. Consequently, the present petition is allowed and the impugned order dated 05.03.2020 (Annexure P-9), passed by the learned Chief Judicial Magistrate, Bhiwani, is set aside and resultantly FIR No. 682, dated 25.11.2020, registered at Police Station City, District Bhiwani, under Section 174-A of the IPC (Annexure P-10) is also quashed.

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

January 24, 2024

(HARPREET KAUR JEEWAN)

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JUDGE

Whether Speaking	Yes/No
Whether reportable	Yes/No