

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125 CRM-M-38637-2023 (O&M)
Date of Decision.:04.03.2024

Jitender KumarPetitioner
Vs.
State of HaryanaRespondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. S.S. Nain, Advocate for
Mr. Pardeep Panwar, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J. (ORAL)

CRM-9505-2024:

This is an application under Section 482 Cr.P.C. to place on record copies of the zimni orders as passed by the Trial Court *qua* the petitioner as Annexure P-5.

- 2. Allowed.
- 3. Annexure P-5 is taken on record.

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4. By way of this petition filed under Section 482 Cr.P.C., prayer is made to set aside the order dated 07.02.2023 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Gurugram, whereby petitioner was declared proclaimed person in case FIR No.85 dated 08.10.2019 registered under Sections 420, 419 of the IPC & Section 66D of IT Act registered at

Police Station Cyber Crime, District Gurugram.

5. With the help of various zimni orders as passed by the Court (Annexure P-5), learned counsel has drawn attention that for the first time warrants of arrest against petitioner were directed to be issued on 14.12.2021 for 18.01.2022. The repeated warrants of arrest as issued against the petitioner did not procure the presence of the petitioner. None of the zimni orders reveals that any of the warrants were received with any particular report to show that petitioner ever avoided to receive the same or concealed himself. Then vide order dated 04.10.2022, proclamation under Section 82 Cr.P.C. was directed to be issued for 03.11.2022. The statement of executing constable regarding the affixation of the proclamation was recorded on 03.11.2022 and thereafter, matter was adjourned to 13.12.2022 and then to 07.02.2023. Petitioner was declared proclaimed person on 07.02.2023.

6. Learned counsel is right in contending that there was no proclamation either for 13.12.2022 or for 07.02.2023 and therefore, the impugned order dated 07.02.2023, whereby the petitioner has been declared proclaimed person is in utter violation of Section 82 Cr.P.C. The proclamation warrants has been issued only for 03.11.2022 but on that day neither the period of 30 days had elapsed nor the petitioner could have been declared proclaimed person.

7. Learned State counsel could not refute the aforesaid contentions, which are based upon the record of the case.

8. In view of the aforesaid facts and circumstances, the impugned

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order dated 07.02.2023 (Annexure P-1), whereby the petitioner was declared proclaimed person in case FIR No.85 dated 08.10.2019 registered under Sections 420, 419 of the IPC & Section 66D of IT Act registered at Police Station Cyber Crime, District Gurugram, is hereby quashed.

9. It is conceded case that after declaring the petitioner as proclaimed person, the P.O. challan had already been filed against the petitioner and co-accused. As per the status report, the matter was fixed before the Trial Court on 13.10.2023 for consideration on charge.

10. Learned counsel for the petitioner also submits that matter is still pending before the Trial Court.

11. In view of the above, the petitioner is hereby directed to surrender before the Trial Court concerned on or before 18.03.2024. On his such surrender, the Trial Court shall admit the petitioner to bail and proceed further in accordance with law.

12. It is made clear that in case, petitioner fails to surrender in compliance of this order, the present petition shall be deemed to have been dismissed.

Disposed of, accordingly.

(DEEPAK GUPTA)
JUDGE

March 04, 2024
Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No