

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M No. 35327 of 2019 (O&M)
Date of Decision: 31.01.2024**

Lakhvir Singh @ Lucky

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Gurlal Singh Dhillon, Assistant Advocate General, Punjab

Mr. Ajay Kumar, Advocate
for the complainant.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 482 Cr.P.C., seeks quashing of the order dated 22.07.2019 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Jalandhar, whereby the petitioner was declared as Proclaimed Offender in FIR No. 111 dated 12.07.2018 under Section 420 of IPC and Section 24 of Immigration Act, registered at Police Station Division No. 2, Jalandhar.

[2] In the present case, having been implicated as an accused in FIR (supra), wherein the allegations were of having received certain amount from the complainant for the purpose of sending him abroad against work visa, the petitioner entered into a settlement with the complainant having paid a sum of Rs. 2,15,000/-, vide compromise deed dated 17.09.2018 (Annexure P-4). Having settled the dispute, the petitioner remained under the impression that he would not be required to face trial in the FIR (supra);

thus, went abroad; however, the proceedings at the instance of investigating agency went on before the trial Court concerned, resulting into declaration of the petitioner as Proclaimed Offender vide order dated 22.07.2019 (P-3) on account of his non-appearance.

[3] Learned counsel for the petitioner submits that while declaring the petitioner as Proclaimed Offender, the mandatory compliance of Section 82 Cr.P.C. was not made and thus, the proceedings carried out against him vide impugned order dated 22.07.2019 (P-3) is wholly vitiated.

[4] Learned State Counsel vehemently opposes the prayer made in the petition while submitting that despite having knowledge about the pendency of the proceedings, the petitioner chose not to appear before the trial Court and thus, the proceedings initiated against him including the FIR in question, warrants no interference.

[5] On the other hand, learned counsel for the complainant supports the cause of petitioner while admitting the factum of aforesaid compromise / settlement (P-4) arrived at between the parties.

[6] I have heard learned counsel for the parties as well as gone through the paper-book and find substance in submissions made on behalf of the petitioner.

[7] In the present case, the proclamation under Section 82 Cr.P.C. was ordered against the petitioner by the trial Court on 01.05.2019 with 14.06.2019 being the date for appearance; however on 14.06.2019 as the 30 days' period had not expired from the date of publication, the matter was adjourned for 22.07.2019 awaiting appearance of the petitioner and on the said date, i.e. 22.07.2019, he was declared as Proclaimed Offender.

[8] A perusal of the zimni orders dated 01.05.2019, 14.06.2019 & 22.07.2019 passed by learned JMIC, show that though the petitioner was declared as Proclaimed Offender on 22.07.2019, however, for the said date, there was no proclamation issued or effected for the purpose of appearance of petitioner, thereby violating the mandate of Section 82 Cr.P.C., thus, the order dated 22.07.2019 (P-3) passed by the trial Court is wholly vitiated. Besides it, the parties have entered into a settlement dated 17.09.2018 (P-4) and the petitioner even intends to appear before the trial Court.

[9] Resultantly, the order dated 22.07.2019 (P-3) passed by learned JMIC, Jalandhar, is set aside; the petitioner is directed to surrender himself before the trial Court / Illaqa Magistrate concerned within two weeks from today and will furnish adequate bail / surety bonds, which shall be accepted by the trial Court to its satisfaction and till then, no coercive steps shall be taken against him.

[10] **Disposed off** accordingly.

[11] The aforesaid order shall, however, be subject to payment of costs of Rs. 5,000/- to be deposited by the petitioner with the Poor Patients' Welfare Fund of the PGIMER, Chandigarh, within a period of two weeks from the date of receipt of certified copy of this order.

January 31, 2024

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**(HARKESH MANUJA)
JUDGE**

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