



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

124-2

**CRM-M-39405-2024
DATE OF DECISION: 14.08.2024**

MOHINDER SINGH**...PETITIONER****Versus****STATE OF PUNJAB AND ANR.****... RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Rakesh Kumar, Advocate for the petitioner(s).
Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 482 Cr.P.C. for quashing of the PO proceedings (Annexure P-5) in complaint bearing No. COMI/15/2019 dated 25.08.2014 under Sections 326, 323, 379, 447, 506, 120-B I.P.C. (Annexure P-1) registered at Police Station Begowal, District Kapurthala, wherein the petitioner along with others were summoned vide order dated 14.08.2017 (Annexure P-2) to face the proceedings but the petitioner was not served properly and was declared Proclaimed Offender vide order dated 04.07.2019 (Annexure P-5) and furthermore, the trial court passed the order dated 13.03.2020, (Annexure P-3) whereby all the accused have been acquitted from the charges in view of the judgement Annexure P-4 as the version recorded by the respondent no.2 has not been found trustworthy, so the abovesaid PO proceedings (Annexure P-5) are liable to be quashed alongwith complaint and the summoning order may also be quashed qua the petitioner.

2. Learned counsel for the petitioner submits the petitioner is residing in District Jalandhar after his retirement from Government



service, but no valid service was affected upon the petitioner in the above said complaint for his appearance, and the proceedings under Section 82 Cr.P.C. were initiated against him on the back of the petitioner, and no observation has been recorded that the petitioner has intentionally avoided the service of the Trial Court and he has been declared as Proclaimed Offender vide order dated 04.07.2019 without holding the fact that the petitioner is intentionally avoiding the service of the Court.

3. Learned counsel for the petitioner further submits that from the perusal of order dated 04.07.2019 declaring the petitioner Proclaimed Offender, it is clear that it has not been recorded by the Trial Court that the petitioner is intentionally avoiding the service of the Court for his appearance, thus the Proclaimed Offender proceeding has wrongly been initiated against him, which are not sustainable in the eyes of law.

4. The petitioner is 75 years old person at this stage, and retired from Government service, and he has no concern with the land dispute between Mehanga Singh and Balbir Singh (complainant/respondent no.2). Furthermore, the Court has recorded the finding of acquittal after considering the evidence on record, and all the accused mentioned in the complaint have been acquitted, so the case of the petitioner is not on different footing rather no role has been attributed to the petitioner in the complaint, thus the complaint and its consequential proceedings are liable to be quashed against the petitioner. The contention of learned counsel for the petitioner is that the petitioner did not had any intention to avoid attendance in the Court proceedings



otherwise he was appearing regularly on each and every date before the Court. He undertakes that the petitioner will surrender before the trial Court and shall join the trial proceedings without any delay or default in future.

5. Notice of motion.

6. On the asking of the Court, learned State Counsel accepts notice on behalf of the respondent-State, who is not averse to the undertaking given by the petitioner that he will surrender before the trial Court.

7. Considering the submissions made by learned counsel and also in appreciation of the fact that it will only speed up the proceedings before the Trial Court which is one of the essence as enshrined under Article 21 of the Constitution of India, the petitioner is directed to surrender before the trial Court within a period of fifteen days from the date of receipt of certified copy of this order and may apply for regular bail.

8. In case, such an application for bail is moved by the petitioner before the learned trial Court, the same shall be considered on the same date and decided in accordance with law.

9. However, it is made clear that in case the petitioner does not abide by the aforesaid undertaking, the respondent/State shall be at liberty to move an appropriate application for revival of the instant petition.

10. The aforesaid order/concession granted to the petitioner shall be subject to payment of costs of Rs.10,000/- to be deposited with the Punjab and Haryana High Court Employees' Association,



Chandigarh and a receipt of the same be produced before the Trial Court and only in that eventuality, application filed by the petitioner seeking bail be considered and decided on the same day in accordance with law.

11. In view of the above, order dated 04.07.2019 (Annexure P-5) declaring the petitioner proclaimed offender is quashed qua the petitioner.

12. The instant petition is disposed of in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

14.08.2024
anuradha

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