

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-43769-2023
Reserved on :02.05.2024
Pronounced on: 20.05.2024

Ravinder SinghPetitioner

Vs.

State of PunjabRespondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Harmanpreet Singh, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
92	27.03.2017	A Division, Amritsar	379-B(2)/506/411/201/148/149 IPC
Sessions Case No. CNR No.PBAS010073532018			
Case No.SC/588/2018			

AND

FIR No.	Dated	Police Station	Sections
67	16.09.2023	Verka, Amritsar	174-A IPC

1. Challenging the order dated 18.08.2023 declaring the petitioner as a proclaimed offender and further directions to register FIR under section 174-A IPC, the petitioner, who is an accused, has come up before this Court under Section 482 CrPC for quashing the said order and also the FIR captioned above along with all consequential proceedings.
2. Vide order dated 18.08.2023 passed by Additional Sessions Judge Amritsar, the petitioner was declared a proclaimed offender because, despite affixation of the proclamation at the conspicuous place of his residence, he failed to appear on 18.08.2023. The Police Official had visited the address, but he was not found present,

and thus, a copy of the proclamation was affixed on the house, and one copy was affixed at a conspicuous place.

3. The petitioner's counsel argued that initially, the petitioner was arrested in the main FIR No.92/2017, and the police could not file a chargesheet on time; as such, he was granted bail under 167(2) CrPC on 03.07.2017. Subsequently, the challan was filed on 31.05.2018, i.e., after 01 year & 2 months, and the petitioner kept on pending the trial till 07.04.2022, on which date the trial Court canceled the bail of the petitioner. After that, a fresh arrest warrant was issued on 19.05.2022 against the petitioner, but they remain unexecuted, and on 10.07.2023, a proclamation was issued for 18.08.2023 when the petitioner was declared proclaimed offender. By the impugned order, FIR No.67 dated 16.09.2023, was registered under Section 174-A IPC at Police Station Verka, Amritsar, against the petitioner. Counsel for the petitioner submits that the petitioner was absent for the reason that he was a drug dependent and had been admitted by his family members to a Drug de-addiction Center in Jammu. A perusal of the reply does not dispute the factum of issuance of warrants, etc., and also mentions in Para 4(E) the reply about registration of FIR under Section 174-A IPC at Police Station Verka, Amritsar.

4. An analysis of the aforesaid petition and reply would lead to the following outcome.

5. Petitioner's counsel argued that he was a drug addict and was admitted to the Rehabilitation Center at Jammu, as mentioned in para 7 of the petition. The State had not filed any formal reply to para 7 of the petition. Thus, the petitioner's statement that he was in Drug Rehabilitation Center, Jammu, remains undisputed.

6. There is another angle to this matter, i.e., when the petitioner was declared a proclaimed offender, he had come up before this Court by filing the present petition on 31.08.2023. Vide order dated 02.09.2023, Coordinate Bench of this Court had stayed the non-bailable warrants against the petitioner subject to the condition that he shall appear before the Court on 06.09.2023. Although, as per para 3 of the petition, the Court had declared the petitioner as a proclaimed offender on 18.08.2023, and keeping that in view, the Coordinate Bench of this Court had stayed the issuance of non-bailable warrants against the petitioner. On 02.09.2023, non-bailable warrants were stayed against the petitioner and on 26.09.2023, the said interim order dated 02.09.2023 was extended till the next date. Despite the stay of non-bailable warrants on 02.09.2023, which was continuing vide order dated 26.09.2023, in between on 02.10.2023, Investigating Officer ASI Manohar Singh arrested the petitioner and produced him before the concerned Judicial Magistrate, Amritsar, who sent him to judicial custody. As

per para 4(G) of the reply, the concerned Judicial Magistrate, 1st Class, Amritsar, recorded the statements, wherein ASI Manohar Singh stated that he was not conveyed about the Court order of stay on the petitioner's arrest.

7. Subsequently, a Coordinate Bench of this Court vide order dated 30.10.2023 directed the Commissioner of Police, Amritsar, to file an affidavit in this regard. It would be appropriate to reproduce the aforesaid affidavit dated 04.12.2023 filed by the Commissioner of Police, and relevant portion of which is extracted as follows: -

"...5. That as per the report furnished by the Additional Deputy Commissioner of Police, City 3, Amritsar, it has been revealed that on 02.09.2023, ASI Balwinder Singh No.2210/ASR, P.S. Verka, Amritsar had appeared before this Hon'ble Court for following up the present petition, but the order dated 02.09.2023 passed in the present petition by this Hon'ble Court was not brought to notice of SHO, P.S. Verka, Amritsar or to the Investigating Officer LR/ASI Manohar Singh. The present petitioner Ravinder Singh @ Ravi was arrested in both the aforementioned cases by the investigating officer ASI Manohar Singh No.2181/ASR and he also did not check the orders dated 02.09.2023 and 26.09.2023 passed in the present petition by this Hon'ble Court before causing arrest of the present petitioner. As such, both these police officials have committed grave negligence while performing their official duty. Consequently, pursuant to the recommendation made by the Additional Deputy Commissioner of Police, City 3, Amritsar, both the above said police officials ASI Balwinder Singh No.2210/ASR and ASI Manohar Singh No.2181/ASR have been placed under Suspension with immediate effect for this lapse and a regular departmental enquiry has been initiated against them. The order of the department enquiry is annexed herewith as Annexure R-2/T for the kind perusal of this Hon'ble Court."

8. A perusal of para 5 of the affidavit does point out that the investigating officer, ASI Manohar Singh, intentionally arrested the petitioner; however, it was due to the ineffective working of the office of the Police Department of Punjab where orders of the Court were not automatically uploaded in any system and no appropriate software has been provided to ensure for cases' status like the present case, where nonbailable warrants against the petitioner have been stayed or anticipatory bail have been given to the petitioner. Thus, the discrepancy of the system is not keeping pace with the latest exponential growth in information technology, what to take about artificial intelligence, etc. The stay order was not brought to the notice of the concerned Police Station, and no software was installed to update stay orders automatically. This Court would have

proposed to grant compensation to the petitioner for illegal arrest, but the problem is not of the State Government alone. Once this Court had stayed the non-bailable warrants, no communication was sent to or by the Court's software either to the concerned Judicial Magistrate or to the police officials. Thus, the fault lies on both sides: the lack of appropriate and efficient software of the Police as well as the Court, for which the petitioner suffered.

9. As such, ASI Manohar Singh was not aware of such a stay order and this Court does not prima facie find ASI Manohar Singh responsible for such an arrest. Resultantly, this Court does not propose to draw any inference against ASI Manohar Singh for wrongly arresting the petitioner.

10. However, the petitioner is permitted to file an application seeking compensation in accordance with law. It shall be permissible for the petitioner to file appropriate application before the concerned Human Rights Commission and/or he is also permitted to take appropriate legal remedies in accordance with the law.

11. In the entirety of facts and circumstances, it is clear that proclamation order was not served to the petitioner because he was drug dependent and was taking treatment in Jammu and since para 7 of the petition remains unrebutted, this Court cannot draw any inference to accept the stand taken by the petitioner.

12. In *Himachal Pradesh Cricket Association v State of Himachal Pradesh*, **2018:INSC:1039 [Para 47]**, *2018 (4) Crimes 324*, Hon'ble Supreme Court holds "[47]. As far as Writ Petition (Criminal) No. 135 of 2017 is concerned, the appellants came to this Court challenging the order of cognizance only because of the reason that matter was already pending as the appellants had filed the Special Leave Petitions against the order of the High Court rejecting their petition for quashing of the FIR/Chargesheet. Having regard to these peculiar facts, writ petition has also been entertained. In any case, once we hold that FIR needs to be quashed, order of cognizance would automatically stand vitiated."

13. In the light of the above-mentioned judicial precedents, I believe that continuing these proceedings will not suffice any fruitful purpose whatsoever.

14. In the facts and circumstances peculiar to this case, the Court invokes the inherent jurisdiction under section 482 CrPC and considering that the petitioner had also been arrested despite there being stay of arrest, present petition is allowed, and the proclamation order dated 18.08.2023 is quashed and set aside. Since the FIR No.67 dated 16.09.2023 was registered pursuant to the order under challenge, which is not

specifically challenged, but is an outcome of order dated 18.08.2023 is also quashed qua the petitioner. Bail bonds and surety bonds, if any, furnished stand discharged.

Petition allowed. All pending application(s), if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

20.05.2024
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Whether speaking/reasoned: Yes
Whether reportable: YES.