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

265-2

CRM-M-55855-2023 (O&M)

Date of decision: 14.10.2024

Ajay Mohindru**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

Mr. G. S. Rawat, Advocate
for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing of order dated 06.05.2023, passed by the Additional Chief Judicial Magistrate, Jalandhar in case titled as ***State vs. Ajay Mohindru***, arising out of FIR No. 150 dated 22.09.2021, registered under Section 406 of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 at Police Station Sadar Jalandhar, District Jalandhar, whereby the petitioner had been declared as proclaimed person.

2. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in this case. He was never served with the notices/warrants issued by the trial Court. The petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 82

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Cr.P.C. It is also submitted that the matter has been compromised between the parties. Hence, it is urged that the impugned order is liable to be set aside.

3. Learned State counsel has argued that the petitioner was having knowledge about the pendency of the trial and had intentionally avoided his appearance before the trial Court. Therefore, he was rightly declared as proclaimed person.

4. Learned Counsel for respondent No. 2, on the other hand, has submitted that the matter stands compromised between the parties and he has no objection if the present petition is allowed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record.

6. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the trial Court from the date of initiating proceedings under Section 82 Cr.P.C. as against the petitioner till the date of declaring him as proclaimed person, I am of the considered opinion that the impugned order dated 06.05.2023 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

7. There are catena of judgments of different High Courts discussing the requirements necessary for issuance and publication of proclamation against an absconder under Section 82 Cr.P.C. and for declaring him as a proclaimed person/offender. These requirements have been discussed from time to time in ***Rohit Kumar Vs. State of Delhi : 2008 CrL J. 2561***, ***Bishundayal Mahton and others Vs. Emperor : AIR 1943 Patna 366***, ***Devender Singh Negi Vs. State of U.P. : 1994 CrL LJ (Allahabad HC) 1783***,

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Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826, Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339, Dilbagh Singh Vs. State of Punjab : (P&H) 2015 (8) R.C.R. (criminal) 166, Ashok Kumar Vs. State of Haryana and another : 2013 (4) RCR (Criminal) 550, Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368, Birad Dan Vs. State : 1958 CriLJ 965, Negi alias Debu Vs. State of U.P. and another, 1994 Cri LJ 1783 and Pal Singh Vs. The State : 1955 CriLJ 318.

8. After going through the material placed on record, it is revealed that as per report of the serving police official, the proclamation issued against the petitioner was executed on 07.04.2023 requiring the petitioner to cause his appearance before the Court concerned on 06.05.2023, thereby giving him only 29 days to do so, which means that he was not granted statutory period of 30 days to cause his appearance before the trial Court. Hence, the same was in clear violation of the provisions of Section 82(1) Cr.P.C., as per which, a specified time of not less than 30 days is required to be given to the accused from the date of publishing such proclamation which is mandatory in nature. Reliance in this regard can be placed upon ***Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826*** and ***Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339.***

9. This Court can also not lose sight of the fact that the matter stands amicably settled between the parties and a petition bearing number ***CRM-M-24618-2024***, filed by the petitioner seeking quashing of the FIR in question on the basis of the said compromise is pending before this Court for 25.11.2024 and vide order dated 07.11.2023, the operation of the impugned order was stayed by this Court.

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10. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 06.05.2023, passed by the Additional Chief Judicial Magistrate, Jalandhar in case titled as ***State vs. Ajay Mohindru***, arising out of FIR No. 150 dated 22.09.2021, registered under Section 406 of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 at Police Station Sadar Jalandhar, District Jalandhar, whereby the petitioner had been declared as proclaimed person, is quashed with all consequential proceedings arising therefrom.

11. However, the petitioner is directed to surrender before the trial Court on 06.11.2024 and on doing so, the trial Court shall release him on bail, subject to his furnishing personal/surety bonds to its satisfaction.

12. Till the appearance of the petitioner before the trial Court, his arrest shall remain stayed.

13. It is made clear that in case the petitioner fails to appear before the trial Court on the aforesaid date, this petition shall be deemed to be dismissed.

14.10.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No