

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126 CRM-M-65019-2023 (O&M)
Date of Decision:30.01.2024

Manish Kohli and AnotherPetitioners
Vs.
State of Punjab and AnotherRespondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Jagjeet Beniwal, Advocate
for the petitioners.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. Rajesh Dhankar, Advocate
for respondent No.2.

DEEPAK GUPTA, J. (ORAL)

CRM-3397-2024:

This is an application under Section 482 Cr.P.C. to place on record copies of the various zimni orders of the Trial Court right from the stage of summoning the petitioners till they are declared proclaimed person. The said application has been moved in compliance of the order dated 22.12.2023 passed by this Court.

Allowed.

Zimni orders passed by the Trial Court from the stage of summoning the petitioners till they are declared proclaimed person are taken on record.

CRM-M-65019-2023:

By way of this petition filed under Section 482 Cr.P.C., prayer is made to quash order dated 09.08.2021 (Annexure P-2) in a complaint case

bearing No.NACT/400/2016 titled 'Amarjeet V. Manish Kohli' passed by learned JMIC, Charkhi Dadri, whereby petitioners were declared proclaimed person.

Learned counsel for the petitioners contends that proclamation upon the petitioners were not served in accordance with law and there is a violation of Section 82 Cr.P.C.

Attention is drawn towards various zimni orders passed by Trial Court concerned. It is revealed that though the petitioners were initially served but they failed to appear before the Court despite service and bailable warrants and then warrants of arrest were issued against them. The same failed to procure their presence. The Court then directed for issuance of the proclamation under Section 82 Cr.P.C. vide order dated 20.02.2020 for 14.05.2020.

It is revealed further that after 14.05.2020 case was adjourned for several times and on 03.03.2021 fresh proclamation were directed to be issued against the petitioners for 06.07.2021. Though on 06.07.2021 proclamation was received back duly served but on that day petitioners were not declared proclaimed persons and matter was adjourned to 09.08.2021. Petitioners were then declared proclaimed person vide order dated 09.08.2021, though, there was no proclamation for that date.

It thus emerges that proclamation was meant for 06.07.2021 for surrender/appearance of the petitioner before the Trial Court concerned but on that day petitioners were not declared proclaimed person. However, on the day i.e. 09.08.2021 when petitioners were declared proclaimed person, there was no direction for the petitioners to appear/surrender before the Trial

Court. Thus there is a clear violation of Section 82 Cr.P.C.

Later on, petitioner No.1 Manish Kohli appeared before the Trial Court concerned as is evident from the order dated 02.11.2023 (Annexure P-5) and statement was made by the complainant regarding the compromise effected between the parties and on that basis complaint was dismissed as withdrawn.

Learned counsel for the respondent No.2- complainant has conceded the fact that matter has since been compromised.

Having regard to all the aforesaid facts and circumstances, present petition is hereby accepted. The impugned order dated 09.08.2021 passed by learned JMIC, Charkhi Dadri, in a complaint case bearing No.NACT/400/2016 titled ‘Amarjeet V. Manish Kohli’, whereby petitioners were declared proclaimed person and all the consequential proceedings arising therefrom are hereby quashed.

(DEEPAK GUPTA)
JUDGE

January 30, 2024

Neetika Tuteja

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