



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

296+130

**CRM-M-54608-2023 (O&M)
Date of Decision : 17.02.2025**

Kamal Prakash Goyal and another

-Petitioners

V/S

State of Punjab and another

-Respondents

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present: Mr. Lakshay Bector, Advocate
for the petitioners.

Mr. Ankit Grewal, DAG, Punjab.

SANJIV BERRY, J. (ORAL)

CRM-3667-2024

Heard.

2. Keeping in view the averments made in the application, the same is allowed subject to just exceptions. Reply filed on behalf of respondent No.2 is taken on record.

3. Registry is directed to tag the same at the appropriate place on the file.

4. Application stands disposed of.

CRM-M-54608-2023

1. By way of present petition filed under Section 482 Cr.P.C, the petitioner is seeking quashing of the impugned order dated 28.04.2023 (Annexure P-2), whereby the petitioners have been declared as proclaimed



persons in the criminal case bearing COMA No.11032 of 2018 dated 18.08.2018, titled as 'Income Tax Officer (TDS) versus M/s Piyush Overseas Pvt. Ltd.

2. Learned counsel for the petitioner, *inter alia* contends that in compliance of the order dated 16.11.2023, petitioners appeared before the learned trial Court on 22.11.2023 and furnished requisite bail bonds, surety bonds and placed on record copy of orders dated 22.11.2023 passed by learned Chief Judicial Magistrate, Ludhiana in case bearing COMA No.11032 of 2018 dated 18.08.2018, titled as “Income Tax Officer (TDS) versus M/s Piyush Overseas Pvt. Ltd.”. He contends that since the petitioners have joined the trial Court proceedings, as such the order dated 28.04.2023 (Annexure P-2) passed by learned Chief Judicial Magistrate, Ludhiana whereby the petitioners were declared as proclaimed person, be quashed.

3. Learned State counsel has not disputed the aforesaid factual matrix of the case and submits that petitioner appeared on 22.11.2023 before the learned trial Court and furnished requisite bail bonds.

4. Heard.

5. During the course of proceedings, following order was passed on 16.11.2023 :-

“CRM-47596-2023

Heard.

2. *Keeping in view the averments made in the application, the same is allowed subject to just exceptions. Income Tax Officer (TDS), Ludhiana is ordered to be impleaded as respondent No.2 in the present case i.e. CRM-M-54608-2023.*



3. *Amended memo of parties, appended along with the said application, is taken on record. Registry is directed to tag the same at the appropriate place on the file.*

4. *Application stands disposed of.*

CRM-M-54608-2023

By way of present petition filed under Section 482 Cr.P.C, the petitioner is seeking quashing of the impugned order dated 28.04.2023 (Annexure P-2), whereby the petitioners have been declared as proclaimed persons in the criminal case bearing COMA No.11032 of 2018 dated 18.08.2018, titled as 'Income Tax Officer (TDS) versus M/s Piyush Overseas Pvt. Ltd.

2. *It is inter alia contended by learned counsel for the petitioners that the aforementioned complaint was lodged by respondent No.2 against the petitioners in the Court of learned Chief Judicial Magistrate, Ludhiana whereby they were summoned to face trial. He submits that the petitioners never received any process for their appearance in the Court nor they received any warrants for proclamation but were declared as proclaimed persons by the learned Trial Court vide impugned order dated 28.04.2023 (Annexure P-2). He submits that learned Trial Court has passed the impugned order without complying with the provisions contained in Section 82 Cr,P,C. and as such, the impugned order is liable to be set aside. He further submits that the petitioners are ready to face the trial.*

3. *Notice of motion.*

4. *On the asking of the Court, Mr. Subhash Godara, Addl. AG, Punjab, present in Court, accepts notice on behalf of the State.*

5. *Let notice be also issued to respondent No.2 for 14.12.2023.*

6. *Dasti as well.*



7. *In the meantime, the petitioners are directed to appear before the Court of learned Chief Judicial Magistrate, Ludhiana within seven days from today. In that event, they are ordered to be released on interim bail on their furnishing personal/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. The petitioners will also furnish a specific undertaking that in future they will appear on each and every date of hearing without fail and only in case of extreme urgency they will seek exemption from the Court in accordance with law. They shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.”*

6. Keeping in view the fact that the petitioners have already appeared on 22.11.2023 before the learned trial Court and furnished their requisite bail/surety bonds consequent to the order dated 16.11.2023, passed by this Court, the present petition is allowed and order dated 28.04.2023 (Annexure P-2) passed by learned Chief Judicial Magistrate, Ludhiana, whereby the petitioners were declared as proclaimed person, is hereby set aside and the interim bail granted vide order dated 16.11.2023 is hereby confirmed.

7. The petition stands disposed of.

17.02.2025
Satyawan

(SANJIV BERRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No