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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision:- 17.02.2025

Gurmeet Singh Brar alias Meeta

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTIPresent:- Mr. Rakesh Sobti, Advocate and
Mr. A.P. Kaushal, Advocate
for the petitioner.

Mr. Kewal Singh, Addl. A.G. Punjab.

AMARJOT BHATTI, J.(Oral)

Petitioner Gurmeet Singh Brar alias Meeta filed petition under Section 482 of Cr.P.C. for quashing of impugned order dated 07.12.2022 (Annexure P-15) along with all consequential proceedings initiated by learned Additional Chief Judicial Magistrate, Faridkot in FIR No. 67 dated 27.05.2009 under Section 406, 498-A of IPC registered at Police Station Sadar Faridkot, District Faridkot (Annexure P-4) vide which he has been declared proclaimed person without following procedure prescribed under law or any other relief which the Court may deem fit and proper in given facts and circumstances of case.

2. Learned counsel for petitioner argued that present petitioner is a Canadian citizen who solemnized marriage with Harjit Kaur, who is also Canadian citizen on 20.02.2006 as per Sikh rites and rituals in a simple manner. After marriage, they live together in Canada. Due to



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temperamental differences, Harjit Kaur filed a petition for divorce. Complainant Gurjant Singh who is father of Harjit Kaur did not take it well and filed complaint with false and frivolous allegations, as a result, FIR No. 67 dated 27.05.2009 under Section 406 and 498-A of IPC was registered at Police Station Sadar Faridkot, District Faridkot (Annexure P-4). Divorce petition was filed by Harjit Kaur in the Court of Queen's Bench of Alberta, Judicial District of Calgary. Statement of claim for divorce along with judgment of divorce are Annexures P-1 to P-3. Daughter of complainant i.e. victim furnished her affidavit in favour of present petitioner, which is Annexure P-5. She has already remarried. In aforesaid FIR No. 67 dated 27.05.2009 (Annexure P-4) (supra), Chand Singh, Harpreet Kaur and Jaswinder Kaur faced trial. They were acquitted for commission of offence under Section 406 of IPC and convicted under Section 498-A of IPC vide judgment dated 21.07.2016. Appeal was preferred against this judgment, which was accepted by the Court of learned Additional Sessions Judge, Faridkot and all aforesaid co-accused were acquitted vide judgment dated 22.02.2017 (Annexure P-6).

However, present petitioner was declared proclaimed person vide order dated 20.02.2010. During this period, petitioner challenged order dated 20.02.2010 by filing a petition and said order was set aside on 19.05.2011 with direction to file fresh order in consonance with provisions of Section 82 of Cr.P.C. In the meantime, he also filed petition for quashing of FIR and all consequent proceedings by filing petition bearing No. CRM-M-635-2018. Vide order dated 10.01.2018, he was directed to appear before trial Court and was ordered to be released on bail to the satisfaction



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of trial Court. Accordingly, he was admitted on bail on 29.01.2018 (Annexure P-8) and order dated 10.01.2018 was made absolute vide order dated 06.05.2019 (Annexure P-7). After joining of proceedings, case was adjourned for awaiting supplementary challan. Petitioner returned to Canada on 27.03.2018 as he was to look after his business. Copy of his Passport is Annexure P-9. Investigating Agency was directed to file supplementary challan and till date it has not been presented. Copies of *zimni* orders passed by learned Additional Chief Judicial Magistrate, Faridkot are Annexure P-10. During this period, he filed application seeking exemption of personal appearance and later on due to Covid-19 pandemic, he could not return from Canada. Thereafter, his non-bailable warrants of arrest were issued and vide order dated 06.08.2022 (Annexure P-12), proclamation proceedings were initiated.

It is argued that petitioner was never served in aforesaid proceedings since he was residing in Canada. This fact was well within the knowledge of trial Court. Petitioner filed another CRM-M-37317-2022, challenging aforesaid order. He filed anticipatory bail application before learned Additional Sessions Judge, Faridkot which was declined vide order dated 21.11.2022 (Annexure P-14). During this period, he was declared proclaimed person vide order dated 07.12.2022 (Annexure P-15) and now proceedings have been initiated regarding his property. CRM-M-22119-2011 for quashing of FIR was disposed of vide order dated 07.09.2015 (Annexure P-17). In the light of this, no proper procedure was followed to initiate proclamation proceedings against him. Even otherwise, provisions of Section 82 of Cr.P.C. have not been complied with. Therefore, impugned



order dated 07.12.2022 (Annexure P-15) is not sustainable in the eyes of law and same may kindly be quashed by accepting present petition.

3. Learned counsel representing State referred to status report confirming the factual position. It is pointed out that present petitioner is prime accused in FIR No. 67 dated 27.05.2009 (supra) (Annexure P-4). He was declared proclaimed person for the first time on 20.02.2010, when he was granted relief by this Court in CRM-M-635-2018 vide order dated 10.01.2018, giving him an opportunity to appear before the trial Court and was released on bail and thereafter, said order was made absolute on 06.05.2019 (Annexure P-7). Petitioner has violated orders passed by this Court. His arrest warrants were issued which could not be executed in ordinary process and thereafter, proclamation proceedings were initiated and for second time he was again declared proclaimed person vide order dated 07.12.2022. Petitioner is in a habit of flouting Court orders and did not make himself available in judicial proceedings. Conduct of present petitioner cannot be ignored. He is still absconding from India and did not appear before trial Court. Since, he has not approached this Court with clean hands, therefore, he is not entitled to any relief.

4. I have considered the arguments and have gone through the record carefully. FIR No. 67 dated 27.05.2009 (supra) is registered on the written complaint of Gurjant Singh, father of Harjit Kaur under Section 498-A, 406 of IPC, Police Station Sadar Faridkot, District Faridkot (Annexure P-4). So far as contents of FIR and stand taken by present petitioner is concerned, same is matter of trial. It is not disputed that other co-accused were initially convicted by trial Court under Section 498-A of



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IPC vide judgment dated 21.07.2016. Thereafter, they filed criminal appeal No. 115 of 2016 in which they were acquitted vide judgment dated 22.02.2017 (Annexure P-6). Present petitioner Gurmeet Singh Brar alias Meeta is main accused in aforesaid FIR, who is a Canadian citizen. As per record, Gurmeet Singh filed CRM-M-635-2018 which was finally disposed of vide order dated 06.05.2019 (Annexure P-7). As per this order, petitioner was directed to join trial Court proceedings vide order dated 10.01.2018. He was admitted on bail vide order dated 29.01.2018 (Annexure P-8) and thereafter, order dated 10.01.2018 was made absolute. Learned counsel for petitioner has placed on record copies of *zimni* orders from 29.01.2018 onwards (Annexure P-10) which clearly shows that on one date i.e. 08.02.2018, present petitioner appeared in Court and supplementary challan was called for and case was adjourned for 30.04.2018. From this date onwards, he continuously filed applications seeking exemption of personal appearance which was liberally allowed by the trial Court and case was adjourned time and again for awaiting supplementary challan. On 01.11.2019, arrest warrants of present petitioner were issued and his bail bonds and surety bonds were cancelled and forfeited to State. Again process was issued which was received back with report that present petitioner had gone to Canada about one and a half years ago. Notice was also served upon surety who had also gone to Canada but thereafter, he appeared and deposited the amount of penalty.

5. Regarding present petitioner vide order dated 06.08.2022 (Annexure P-12), proclamation proceedings were ordered to be issued for 29.10.2022. As per order dated 29.10.2022, proclamation was effected on



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27.10.2022. Since period of 30 days did not lapse, case was adjourned to 05.11.2022. On 05.11.2022, proceedings against surety were concluded and finally present petitioner was again declared proclaimed person by passing impugned order dated 07.12.2022 (Annexure P-15).

Perusal of aforesaid record clearly indicates that firstly present petitioner was declared proclaimed person vide order dated 20.02.2022, which was set aside in revision by this Court with direction to file fresh order in consonance with provisions of Section 82 of Cr.P.C. He filed petition for quashing of FIR in which he was directed to appear before trial Court by granting interim relief and on his appearance before trial Court, interim order was made absolute by this Court vide order dated 06.05.2019. Now present petitioner has again been declared proclaimed person vide order dated 07.12.2022. There is nothing on record to show that petitioner went to Canada with permission of Court. As per his petition, he went to Canada on 27.03.2018 and thereafter, applications for exemption of personal appearance were filed time and again. During this period, due to Covid-19 pandemic, cases were adjourned in routine and even thereafter, petitioner did not appear before the trial Court. His warrants of arrest were issued for first time as per order dated 01.11.2019 and proclamation proceedings were initiated as per order dated 06.08.2022. It cannot be ignored that petitioner misused concession granted in his favour by this Court vide order dated 06.05.2019 (Annexure P-7).

6. The other important aspect of present case is despite having report that petitioner has gone to Canada, much time was consumed in issuing his warrants of arrest time and again. We are to see carefully the



procedure followed by trial Court for issuance of proclamation proceedings qua present petitioner. Section 82 of The Code of Criminal Procedure, 1973 deals with Proclamation which runs as under :-

“82. Proclamation for person absconding. –

- (1) If Any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specific place and at a specified time not less than thirty days from the date of publishing such proclamation.
- (2) The proclamation shall be published as follows:—
 - (i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;
 - (b) it shall be affixed to some conspicuous part of the house or home-stead in which such person ordinarily resides or to some conspicuous place of such town or village;
 - (c) a copy thereof shall be affixed to some conspicuous part of the Court house;
 - (ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.
- (3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of Sub-Section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.
- (4) Where a proclamation published under Sub-Section (1) is in respect of a person accused of an offence punishable under section 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459 or 460 of the Indian



Penal Code (45 of 1860) and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

- (5) The provisions of Sub-Sections (2) and (3) shall apply to a declaration made by the Court under Sub-Section (4) as they apply to the proclamation published under Sub-Section (1).”

As per this provision, on the issuance of written proclamation by following procedure as detailed in Section 82(2) of Cr.P.C, there is a requirement about mentioning specific place and time not less than 30 days for appearance of accused, from the date of publishing such proclamation as in Section 82(1) of Cr.P.C. On this point, gainful reference can be made to the judgment of Coordinate Bench in *Criminal Misc. No. M-13638 of 2013 (O&M) decided on 05.08.2013* in case titled “Ashok Kumar Versus State of Haryana and another” and another judgment of Coordinate Bench in *CRM-M-15727-2021, decided on 09.04.2021* in case titled “Davinder Singh Chawla Versus State of Haryana and another”.

In the case in hand, proclamation was issued on 06.08.2022 for 29.10.2022, but as per order it was actually effected on 27.10.2022. Therefore, there was a gap of only three days, as a result, case was again adjourned for 05.11.2022 and finally, he was declared proclaimed person on 07.12.2022 by passing impugned order (Annexure P-15). Therefore, trial Court was to provide period of 30 days to accused/petitioner for appearing before the Court on publication of proclamation. In such like situation, it would have been proper for trial Court to again issue fresh proclamation in terms of Section 82 of Cr.P.C.



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7. In the light of this, impugned order dated 07.12.2022 (Annexure P-15) is not legally sustainable in the eyes of law. Therefore, present petition is allowed and impugned order dated 07.12.2022 (Annexure P-15) is accordingly set aside.

8. Present petitioner is still in Canada. Considering his previous conduct, I am not inclined to grant any interim relief to petitioner and trial Court may issue fresh proclamation, keeping in mind the provisions of Section 82 of Cr.P.C.

9. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

17.02.2025

*lalit***(AMARJOT BHATTI)**
JUDGE

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