[2025] 1 S.C.R. 117 : 2025 INSC 21

Daljit Singh
v.
State of Haryana & Anr.

(Criminal Appeal No. 4359 of 2024)

02 January 2025

[C.T. Ravikumar and Sanjay Karol,* JJ.]

Issue for Consideration

Issue arose as regards the order passed by the High Court refusing to quash the complaint, summoning order and order declaring the appellant a proclaimed offender passed by the Magistrate; whether the proclaimed offender status, under the provisions of the Cr.P.C., of an accused can subsist if such accused stands acquitted during trial in connection to the very same offence; and whether the subsistence of the proclamation u/s.82 Cr.P.C. necessary for the authorities to proceed against accused against whom such proclamation issued, u/s.174A IPC.

Headnotes†

Code of Criminal Procedure, 1973 – s.82 – Proclamation for person absconding – Penal Code, 1860 – s.174A – Penal consequences for intentionally evading the process u/s.82 Cr.P.C. – Appellant declared proclaimed offender for failing to appear in the court despite summons and written proclamation u/s.82 – High Court dismissed the appellant's petition seeking quashing of the complaint, summoning order, and proceedings – Subsistence of the proclamation u/s.82 Cr.P.C., if necessary for the authorities to proceed against accused against whom such proclamation stands issued u/s.174A IPC:

Held: If the status u/s.82 Cr.P.C. is nullified, the person subjected to such proclamation, by virtue of subsequent developments is no longer required to be presented before a Court of law, the prosecution can still proceed against such a person for having not appeared before a Court during the time that the process was in effect – s.174A IPC is an independent, substantive offence, that can

* Author

continue even if the proclamation u/s.82 Cr.P.C. is extinguished – It is a stand-alone offence – On facts, the appellant stands acquitted of the main offence which means that there is no case for which his presence is required to be secured – FIR u/s. 174A IPC was registered against the appellant, in connection with which, he was released on bail – Original offence pertains to the year 2010, the money subject matter of dispute stands paid, the judgment of the High Court is quashed and set aside – All criminal proceedings, inclusive of the FIR u/s.174A IPC closed – Appellant's status, as 'proclaimed person' quashed. [Paras 7.3, 8, 9, 11]

Case Law Cited

Mukesh Bhatia v. State (NCT of Delhi) **2022 SCC OnLine Del 1023;** Divya Verma v. State **2023 SCC OnLine Del 2619;** *Sameena & Anr. v. State GNCT of Delhi & Anr.* **Crl. M.C No, 1470 of 2021, Dated 17th May, 2022 – approved.**

Kartarey v. State of U.P **(1976) 1 SCC 172;** *Jayendra Vishnu Thakur v. State of Maharashtra* [2009] 8 SCR 591 **: (2009) 7 SCC 104;** *Vimlaben Ajitbhai Patel v. Vatslaben Ashokbhai Patel* [2008] 4 SCR 1077 **: (2008) 4 SCC 649;** *Raghubir Singh v. State of U.P.* **(1972) 3 SCC 79;** *Rahman v. State of U.P* **AIR 1972 SC 110;** *Matru v. State of U.P* [1971] 3 SCR 914 **: (1971) 2 SCC 75;** *State v. Dawood Ibrahim Kaskar* [1997] Supp. 1 SCR 212 **: (2000) 10 SCC 438;** *Sureshchandra Ramanlal v. State of Gujarat* **(2008) 7 SCC 591;** *State of M.P. v. Pradeep Sharma* [2013] 12 SCR 772 **: (2014) 2 SCC 171: ;** *Prem Shankar Prasad v. State of Bihar* [2021] 6 SCR 1176 **: (2022) 14 SCC 516;** *Srikant Upadhyay v. State of Bihar* [2024] 3 SCR 421 **: 2024 SCC OnLine SC 282 – referred to.**

List of Acts

Penal Code, 1860; Code of Criminal Procedure, 1973; Negotiable Instruments Act, 1881

List of Keywords

Proclaimed offender; Proclaimed offender status; Subsistence of the proclamation u/s.82 Cr.P.C.; Failing to appear in the court despite summons and written proclamation u/s.82 CrPC; Summoning order.

Daljit Singh v. State of Haryana & Anr.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 4359 of 2024

From the Judgment and Order dated 02.06.2023 of the High Court of Punjab & Haryana at Chandigarh in CRM-M No. 5784 of 2023

Appearances for Parties

Ms. Sugandh Rathor, Mayank Dahiya, Ajay Pal, Ms. Bhupinder, Advs. for the Appellant.

Raj Singh Rana, A.A.G., Samar Vijay Singh, Makrand Pratap Singh, Fateh Singh, Advs. for the Respondents.

Judgment / Order of the Supreme Court

Judgment

Sanjay Karol, J.

1. The questions arising in this appeal that assails the judgment and order dated 2nd June, 2023 passed by the High Court of Punjab & Haryana at Chandigarh in Case No.CRM-M-5784 of 2023 (O&M), whereby under Section 482 of Criminal Procedure Code, 1973[1] the Court refused to quash Complaint Case No.151 of 2010 dated 8th June, 2010; summoning order dated 17th August, 2010; and order dated 28th November, 2016 declaring the appellant a proclaimed offender passed by the Judicial Magistrate, 1st Class, Bhiwani; are that whether the proclaimed offender status, under the provisions of the Cr.P.C., of an accused can subsist if such accused stands acquitted during trial in connection to the very same offence; and whether the subsistence of the proclamation under Section 82 of Cr.P.C. is necessary for the authorities to proceed against an accused against whom such a proclamation stands issued, under Section 174A of the Indian Penal Code, 1860.[2]

2. The facts which gave rise to the question as above, in brief, are:

1 Hereinafter, "Cr.P.C."

2 Hereinafter, "IPC"

2.1 The Appellant ran a business concern which was awarded a contract for '8-Laning' of a National Highway (NH-1) within Delhi, by the National Highways Authority of India[3].

2.2 In furtherance of such a contract, Respondent No. 2[4] approached a company by the name of M/s Bhola Singh Jaiprakash Construction Ltd. for stone crushing. On mutually agreed specifications, it is also part of the agreement that the same would be supplied to the construction site. In connection thereto, cheques by way of security, were also issued. The work under the agreement was also executed but allegedly did not meet the specifications, hence resulting in a dispute.

2.3 The NHAI terminated the Appellant's contract on 13th January, 2009 and accordingly cashed the bank guarantee furnished. It is alleged that the cheques issued by way of security to Respondent No. 2 were misplaced and the new cheque worth ₹10 Lacs given as the payment was duly encashed on 16th October, 2009.[5] Subsequently on 30th November, 2009 cheque issued from the bank guarantee account as security was also encashed despite having encashed the subsequent cheque issued as final payment.

2.4 The Complaint case, in connection with the unclaimed cheque, was filed on 8th June, 2010, in which summons were issued on 17th August, 2010. Thereafter, the case was allegedly transferred out of Bhiwani, and eventually back to its jurisdictional Court. Notice upon non-appearance of the Appellant, direction to issue written proclamation under Section 82 Cr.P.C. with a further direction to the Appellant to appear before the Court on 28th November, 2016 was issued on 15th October, 2016. On 28th November, 2016, the order declaring the Appellant and another director of the company as proclaimed offenders, was issued.[6] All such proceedings and orders are subject matter of challenge in this Appeal.

3 Hereafter, "NHAI"

4 Hereinafter referred to as the complainant

5 Cheque No. 72107, Bank of Baroda.

6 Hereafter referred to as the 'PO Order'

2.5 This other Director, RP Singh preferred quashing petitions before the High Court which came to be eventually dismissed.

2.6 The Appellant was arrested under the PO Order on 19th December, 2022 and released on bail the same day, by the competent Court. He was raided by the police again, in connection with an FIR[7] of similar nature.

2.7 The Quashing Petition in which the impugned order came to be passed was filed on 31st January, 2023. The same was dismissed on 2nd June, 2023 by the impugned order and judgment.

3. The impugned order dismissed the Appellant's petition under Section 482, Cr.P.C., with reference to an earlier judgment of the Court wherein it had been held that if a person had been declared a proclaimed offender, such a petition by him would not be maintainable. It was observed that the validity of such a proclamation is also to be raised before the Court which issued the proclamation.

4. We have heard the learned counsel appearing for the parties. It is the admitted position at the Bar that in subsequent developments after the filing of the special leave petition, the Appellant stands exonerated in the germane proceedings under section 138 of the Negotiable Instruments Act, 1881. It is against this backdrop that the questions identified in paragraph 1 of this judgment, arise for consideration.

5. Section 82 of the Cr.P.C. runs thus:

> "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 specified 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:—
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> (i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

7 FIR No. 200 dated 17th December 2023 u/s 174A, IPC.

(b) it shall be affixed to some conspicuous part of the house or homestead 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."

6. Let us now consider some of the pronouncements of this Court to appreciate its import.

6.1 In ***Kartarey v. State of U.P.***[8] the meaning of the word 'absconder' was recorded as follows:-

"**43.** …To be an "absconder" in the eye of law, it is not necessary that a person should have run away from his home, it is sufficient if he hides himself to evade the process of law, even if the hiding place be his own home…"

8 (1976) 1 SCC 172

Further, in ***Jayendra Vishnu Thakur v. State of Maharashtra***,[9] it was observed:-

"40. The term "absconding" has been defined in several dictionaries. We may refer to some of them:

Black's Law Dictionary — To depart secretly or suddenly, especially to avoid arrest, prosecution or service of process.

P. Ramanatha Aiyar — primary meaning of word is "to hide".

Oxford English Dictionary — "To bide or sow away".

Words and Phrases — "clandestine manner/intent to avoid legal process".

6.2 The object and purpose of Section 82, Cr.P.C. was taken note of in ***Vimlaben Ajitbhai Patel v. Vatslaben Ashok bhai Patel***.[10] S.B Sinha J., writing for the Court held as under**:-**

"**32.** The provisions contained in Section 82 of the Code of Criminal Procedure were put on the statute book for certain purpose. It was enacted to secure the presence of the accused. Once the said purpose is achieved, the attachment shall be withdrawn. Even the property which was attached, should be restored. The provisions of the Code of Criminal Procedure do not warrant sale of the property despite the fact that the absconding accused had surrendered and obtained bail. Once he surrenders before the court and the standing warrants are cancelled, he is no longer an absconder. The purpose of attaching the property comes to an end. It is to be released subject to the provisions of the Code. Securing the attendance of an absconding accused, is a matter between the State and the accused. The complainant should not ordinarily derive any benefit therefrom. If the property is to be sold, it vests with the State subject to any order passed under Section 85 of the Code. It cannot be a subject-matter of execution of a decree, far less for executing the decree of a third party, who had no right, title or interest thereon."

(Emphasis Supplied)

9 [2009] 8 SCR 591 : (2009) 7 SCC 104

10 [2008] 4 SCR 1077 : (2008) 4 SCC 649

6.3 The evidentiary value of a person absconding has been discussed in ***Raghubir Singh v. State of U.P.,***[11] in the following terms:

> "**11.** …the act of absconding, even if proved, is normally considered a somewhat weak link in the chain of circumstances utilised for establishing the guilt of an accused person. If the evidence of eye-witnesses is held trustworthy then the act of absconding even if established would serve only to further fortify the satisfaction of the court with respect to the guilt of the accused concerned, for, even an innocent person may well try to keep out of the way if he learns of his false implication in a serious crime reported to the police. ..."
>
> (Emphasis Supplied)

6.4 In ***Rahman v. State of U.P.,***[12] it was held that absconding by itself is not conclusive either of guilt or of a guilty conscience. For, a person may abscond on account of fear of being involved in the offence or for any other allied reason. The observations in ***Matru v. State of U.P.,***[13] are instructive.

> "**19.** … Even an innocent man may feel panicky and try to evade arrest when wrongly suspected of a grave crime such is the instinct of self-preservation. The act of absconding is no doubt relevant piece of evidence to be considered along with other evidence but its value would always depend on the circumstances of each case. Normally the courts are disinclined to attach much importance to the act of absconding, treating it as a very small item in the evidence for sustaining conviction. It can scarcely be held as a determining link in completing the chain of circumstantial evidence which must admit of no other reasonable hypothesis than that of the guilt of the accused.…"
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> (Emphasis Supplied)

11 (1972) 3 SCC 79

12 AIR 1972 SC 110

13 [1971] 3 SCR 914 : (1971) 2 SCC 75

6.5 The notice under Section 41 Cr.P.C., must have necessarily been issued prior to the notice and declaration under Section 82, and attachment under its subsequent sections. In ***State v. Dawood Ibrahim Kaskar***,[14] it was held:-

> "**22.** … Now, the power of issuing a proclamation under Section 82 (quoted earlier) can be exercised by a Court only in respect of a person "against whom a warrant has been issued by *it*". In other words, unless the Court issues a warrant the provisions of Section 82, and the other sections that follow in that part, cannot be invoked in a situation where in spite of its best efforts the police cannot arrest a person under Section 41."

6.6 Numerous judgments of this Court which concern this Section, have been about bail. Illustratively, ***Sureshchandra Ramanlal v. State of Gujarat***,[15] ***State of M.P. v. Pradeep Sharma***,[16] ***Prem Shankar Prasad v. State of Bihar***[17] and ***Srikant Upadhyay v. State of Bihar***.[18] However, we are not concerned with bail in the present matter, so it is not necessary to go into them.

7. Having considered the law as laid down in the judgments above in respect of Section 82, at this stage we must also consider Section 174A IPC which lays down penal consequences for intentionally evading the process under Section 82 Cr.P.C. It reads as under :-

> **"174A. Non-appearance in response to a proclamation under section 82 of Act 2 of 1974.—**
>
> Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (1) of section 82 of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub

14 [1997] Supp. 1 SCR 212 : (2000) 10 SCC 438

15 (2008) 7 SCC 591

16 [2013] 12 SCR 772 : (2014) 2 SCC 171

17 [2021] 6 SCR 1176 : (2022) 14 SCC 516

18 [2024] 3 SCR 421 : 2024 SCC OnLine SC 282

section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine."

Now, let us consider the second question arising in this appeal, in reference to this provision is, whether the subsistence of the proclamation u/s 82 Cr.PC is necessary for the authorities to proceed against the accused person u/s 174A IPC. In other words, whether Section 174A IPC can stand independent of the proclamation u/s 82 Cr.P.C. or not?

7.1 The purpose of Section 82 Cr.P.C., as can be understood from a bare reading of the statutory text is to ensure that a person who is called to appear before a Court, does so. This Section appears as part of Chapter VI which is titled '*Process to Compel Appearance'*. Section 83 to 90 provide for the additional method of attachment of property to the end of securing appearance. Necessarily then some or the other proceeding has to be ongoing for which the presence of such person is necessary. The words of the Section dictate that it can be only issued in respect of a person against whom a warrant has been issued. Neither a warrant nor proclamation subsequent can be conjured up out of thin air.

7.2 Section 174A IPC**,** inserted by the 2005 Amendment to the Indian Penal Code inserts a substantive offence, prescribing punishment of three years or fine or both when such proclamation is issued under Section 82(1) Cr.P.C. and, seven years and fine if the said proclamation is under Sub-section (4) thereof. The object and purpose of this Section is to ensure penal consequences for defiance of a Court order requiring a person's presence.

7.3 Now, what happens if the status under Section 82 Cr.P.C. is nullified i.e., the person subjected to such proclamation, by virtue of subsequent developments is no longer required to be presented before a Court of law. Then, can the prosecution still proceed against such a person for having not appeared before a Court during the time that the process was in effect. The answer is in the affirmative. We say so for the following reasons:-

(i) The language of Section 174A, IPC says *"whoever fails to appear at the specified place and the specified time as required by proclamation…"*. This implies that the very instance at which a person is directed to appear, and he does not do so, this Section comes into play;

(ii) What further flows from the language employed is that the instance of non-appearance becomes an infraction of the Section, and therefore, prosecution therefore would be independent of Section 82, Cr.P.C. being in effect;

(iii) So, while proceedings under Section 174A IPC cannot be initiated independent of Section 82, Cr.P.C., i.e., can only be started post the issuance of proclamation, they can continue if the said proclamation is no longer in effect.

(iv) We find that the Delhi High Court has taken this view, i.e., that Section 174A, IPC is a stand-alone offence in ***Mukesh Bhatia*** v. ***State (NCT of Delhi)***;[19] ***Divya Verma*** v. ***State;***[20] ***Sameena & Anr. v. State GNCT of Delhi &Anr.***[21] For the reasons afore-stated, we agree with the findings made in these judgments/orders. At the same time, it stands clarified that we have not commented on the merits of the cases.

(v) Granted that the offence prescribed in Section 174A IPC is indeed stand-alone, given that it arises out of an original offence in connection with which proceedings under Section 82 Cr.P.C. is initiated and in the said offence the accused stands, subsequently, acquitted, it would be permissible in law for the Court seized of the trial under such offence, to take note of such a development and treat the same as a ground to draw the proceedings to a close, should such a prayer be made and the circumstances of the case so warrant.

8. In conclusion, we hold that Section 174A IPC is an independent, substantive offence, that can continue even if the proclamation under Section 82, Cr.P.C. is extinguished. It is a stand-alone offence. That

19 2022 SCC OnLine Del 1023

20 2023 SCC OnLine Del 2619

21 Crl. M.C No, 1470 of 2021, Dated 17th May, 2022

being the position of law, let us now turn to the present facts. As we have already noted supra, the Appellant stands acquitted of the main offence.

9. The record speaks to the fact that an FIR under Section 174A IPC was registered against the Appellant, in connection with which, he was released on bail by the Judicial Magistrate, First Class, Bhiwani, *vide* order dated 19th December, 2022. It reads:-

> "Dinesh Kumar Vs. R.P. Singh etc.
>
> BA-3034-2022
>
> COMA-1664-2013
>
> Present: Complainant in person with Sh. Raj kumar Gugnani, Advocate.
>
> Sh. Devender Singh Tanwar, counsel for the accused Daljeet Singh.
>
> Reply to the bail application not filed. Brief arguments on the bail application heard. At this juncture a compromise has been effected wherein the matter has been settled for 9.5 lakh out of which Rs. 1 lakh have been paid to the complainant and another Rs. 1 lakh shall Be transferred in his bank account today. The nephew and son of the accused have further suffered a statement that the remaining 7.5 lakh shall be paid to the complainant on or before the adjourned date of hearing. The complainant have suffered a statement and agrees with the said arrangement. In the given circumstances when the matter has been settled and even otherwise also the proceedings had been stayed by Hon'ble High court way back on 07.02.2017 and which have only been dismissed on 15.11.2022 after which, the accused was arrested on 17.12.2022. he is admitted to bail subject to the following conditions.
>
> 1. He shall furnish personal and surety bonds in the sum of Rs.50,000/- along with an FDR In the sum of Rs. 50,000/-.
>
> 2. The present place of residence as well as office of the accused be furnished by way of affidavit through next of kin.

> 3. That he shall come present in Court in person on all dates of hearing, failing which his bail shall be cancelled, subject to just exceptions.
>
> Requisite bonds, affidavit and FDR furnished. Accepted and atlested. Additional affidavit also filed by surety that he shall not en cash the FDR without the permission of the Court and that the R.C. submitted is original which he shall not sell without the permission of The Court Release Warrant be issued forth with.
>
> Adjourned to 21.01.2023 for payment else for further proceedings."
>
> (emphasis supplied)

10. None has disputed the above or brought to the attention of this Court such a fact that the said arrangement has not been complied with.

11. The Appellant has been acquitted which means that there is no case for which his presence is required to be secured. Resultantly, the appeal is allowed. In the attending facts and circumstances of the case, i.e. that the original offence pertains to the year 2010; the money subject matter of dispute stands paid, the judgment of the High Court with the particulars as mentioned in paragraph 1 of this judgment, stands quashed and set aside. All criminal proceedings, inclusive of the FIR under Section 174A IPC, shall stand closed. The Appellant's status, as a 'proclaimed person' stands quashed.

Pending Application(s) if any, stand disposed of.

Result of the case: Appeal allowed.

†*Headnotes prepared by:* Nidhi Jain