

(2014) 05 P&H CK 0459

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Misc. No. M-19413 of 2014

Jaswant Singh Atwal

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: May 30, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 120-B, 148, 149, 307, 308

Hon'ble Judges: Inderjit Singh, J

Bench: Single Bench

Advocate: G.S. Sidhu, Advocate for the Appellant

Final Decision: Dismissed

Judgement

Inderjit Singh, J.

Jaswant Singh Atwal-petitioner has filed this petition u/s 482 Cr.P.C. against State of Punjab, District Magistrate-cum-Deputy Commissioner-cum-District Revenue Officer, S.B.S. Nagar (Nawanshahr) and Station House Officer, Police Station Behram, District S.B.S. Nagar for setting aside/modification of judgment dated 20.11.2003 (Annexure-P.7) passed by learned Additional Sessions Judge, Nawanshahr in case FIR No. 75 dated 3.3.2003 registered at Police Station Behram (Banga) for the offences under Sections 308, 336, 342, 323 and 34 IPC (which were later on altered for the offences under Sections 307, 326, 325, 323, 342, 148 and 149 read with Section 120-B IPC) to the extent of remarks declaring the petitioner as proclaimed offender in the above FIR along with all consequential proceedings arising therefrom i.e. attachment of property vide Rapat Roznamcha No. 479 dated 19.8.2013.

2. At the time of arguments, learned counsel for the petitioner has argued that the judgment (Annexure-P.7) should be modified/set aside to the extent that "it has been stated that accused Jaswant Singh Atwal could not be arrested and was got

declared proclaimed offender and challan against the remaining accused was presented". Learned counsel for the petitioner stated that in fact Jaswant Singh Atwal-petitioner was never declared proclaimed offender. Therefore, proceedings launched by way of attachment and sale of the property are against the law.

3. I have heard learned counsel for the petitioner and have gone through the record.

4. From the perusal of the record, I find that as per the petitioner no order regarding declaring him proclaimed offender has been passed by the Court and he has been wrongly stated so in the judgment Annexure P.7. A perusal of the record shows that the petitioner has never approached the Sessions Court for this grievance and learned counsel for the petitioner states that these observations in the judgment Annexure P.7 are due to inadvertence and clerical error. It is admitted case of the petitioner that he has not approached the Sessions Court by filing any application for correction of the judgment and directly has come to the High Court u/s 482 Cr.P.C.

5. In my considered opinion, if the case of the petitioner is taken to be correct that he has not been declared proclaimed offender, then he should first approach the Sessions Court instead of filing this petition u/s 482 Cr.P.C. directly before this Court. If the petitioner has been declared proclaimed even in that case, the remedy with the petitioner is to challenge that order.

6. Therefore, from the above discussion, I find no merit in the present petition and the same is dismissed. However, the petitioner is at liberty to first approach the Sessions Court for seeking redressal of his grievance.