



2026:DHC:2499



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 18.12.2025
Judgment pronounced on: 18.03.2026
Judgment uploaded on: 24.03.2026

+ **CRL.M.C. 2454/2022, CRL.M.A. 10311/2022, CRL.M.A. 14550/2024, CRL.M.A.14551/2024, CRL.M.A. 5983/2025 & CRL.M.A. 5985/2025**

MANISH POPLI

.....Petitioner

Through: Mr. Maninder Singh, Senior
Advocate with Ms. Aekta Vats
and Ms. Janvi, Advocates.

versus

CENTRAL BUREAU OF INVESTIGATION
AND ORS.

.....Respondents

Through: Mrs. Anubha Bhardwaj, SPP
CBI along with Ms Ananya
Shamshery and Mr. Vijay
Misra, Advs. along with
Inspector Avinash, IO, CBI.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the present petition, the petitioner seeks setting aside of the order dated 13.12.2019, declaring the petitioner as 'proclaimed person', passed by the learned CMM (South-East), Saket District Court, New Delhi in FIR bearing no. 162/2018, registered at Police Station Defence Colony, Delhi, for the



commission of offence punishable under Sections 376/506 of the Indian Penal Code, 1860 [hereafter ‘IPC’], and subsequent proceedings emanating therefrom in case titled ‘*State v. Manish Popli @ Aashu*’, CBI/22/2021, pending before the Court of the learned CMM, Rouse Avenue Court, Delhi.

FACTUAL BACKGROUND

Case of the Petitioner – Averments in Crl.M.C. 2454/2022

2. The case set up by the petitioner before this Court, as can be culled out from the petition, is that he is an Australian citizen, engaged in immigration services both in Australia and India, in association with his wife, who is a registered migration agent. He states that he is a permanent resident of Australia, residing at Cheltenham, Victoria, and visits India only occasionally, during which he stays at his parental residence in Malviya Nagar, New Delhi. It is the case of petitioner that he has been falsely implicated in the present case as a result of a “honey-trap” conspiracy allegedly involving the prosecutrix, her relatives, and certain police officials. In this regard, it is stated that prosecutrix had alleged that she was raped by the petitioner on 10.03.2018 at Hotel Swagath. The prosecutrix, along with her aunt, had initially approached P.S. Defence Colony and given a complaint, while stating that no action was required at that stage. It is further stated that on 12.03.2018, the petitioner was called by police officials of P.S. Defence Colony on the pretext of inquiry regarding visa-related documents, but was



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taken to the police station where the prosecutrix and her relatives were already present, and allegations of sexual assault were levelled against him. The petitioner alleges that, despite being innocent, he was subjected to coercion and extortion by the prosecutrix, her relatives, and police officials, pursuant to which an amount of about ₹40 lakhs was arranged, with a further sum allegedly to be paid subsequently. It is stated that he was released from the police station in the early hours of 13.03.2018. Thereafter, on 14.03.2018, one SI Amit Mann and HC Vikas had summoned a petitioner's friend Lavneesh to come to Select City Mall for paying the balance amount of ₹10 lakhs, and the CCTV footage of the mall captures their presence. It is further stated that a complaint dated 21.03.2018 was thereafter made by the petitioner's associate to the Vigilance authorities, pursuant to which an enquiry was initiated into the said allegations. In support of this contention, the petitioner relies upon a vigilance enquiry conducted by ACP N.S. Minhas, which, according to him, concluded that the petitioner was a victim of both the alleged gang as well as police misconduct. It is stated that on petitioner's complaint, an FIR bearing no. 281/2018, was registered on 02.11.2018 at P.S. Crime Branch, Delhi, for offence under Sections 384/120B of the IPC. However, the prosecutrix, immediately thereafter, the prosecutrix filed an application under Section 156(3) of Cr.P.C. and pursuant to order passed by the learned Magistrate, the present FIR bearing no. 162/2018 came to be registered at P.S. Defence Colony, Delhi, on 28.11.2018, for the offence under



Sections 376/506 of the IPC.

3. It is the petitioner's case that being aggrieved by the non-action in the FIR registered on the complaint of the petitioner, and registration of false FIR on the complaint of prosecutrix, the petitioner filed a Writ Petition bearing W.P. (Crl.) No. 1543/2019. During the pendency of the said writ petition, it is alleged that respondent no. 3, in a clandestine manner and by concealing material facts, obtained proclamation orders against the petitioner from the court of the learned CMM, Saket Court. It is specifically stated that proclamation proceedings were initiated and orders were passed on 30.08.2019, followed by subsequent orders culminating in the order dated 13.12.2019 declaring the petitioner as a "proclaimed person".

4. The petitioner contends that he had moved an application dated 17.10.2019 before the learned CMM, Saket Court, seeking recall of the proclamation proceedings; *however*, the same was dismissed on 18.11.2019 in a mechanical manner. It is further alleged that despite the petitioner having disclosed his Australian address in the writ petition [W.P. (Crl.) No. 1543/2019] pending before this Court, no steps were taken to serve summons upon him through the Ministry of External Affairs or through electronic means such as email or WhatsApp, and the learned CMM, Saket Court was misled into believing that proper service had been effected.

5. The petitioner further submits that he thereafter filed Crl. M.A. No. 139/2020, under Section 482 of the Cr.P.C. read with Article 226



of the Constitution of India, in the above-noted pending writ petition, seeking setting aside of the order dated 18.11.2019 passed by the learned CMM, Saket Court. The said application came up for hearing on 09.01.2020 along with the main writ petition. However, it is alleged that respondent no. 3 failed to disclose before this Court that the petitioner had already been declared a proclaimed person *vide* order dated 13.12.2019.

6. It is further stated that on 09.01.2020, this Court, while allowing the principal prayer in W.P. (Crl.) No. 1543/2019, transferred the investigation of both the FIRs to the Central Bureau of Investigation [hereafter '*CBI*'] and made certain observations regarding the manner in which the investigation was being conducted by respondent no. 3. It is stated that FIR No. 281/2018, registered at P.S. Crime Branch, Delhi, on 02.11.2018 – on the complaint of petitioner herein – was converted to ***RC SI 2020 S 0003***, whereas the FIR No. 162/2018, registered at P.S. Defence Colony, Delhi, on 28.11.2018 – on the complaint of prosecutrix – was converted to ***RC SI 2020 S 0002***.

7. The petitioner states that in view of the transfer of investigation, this Court did not adjudicate upon Crl. M.A. No. 139/2020 (seeking quashing of order dated 18.11.2019) and granted liberty to the petitioner to approach the appropriate forum for recall of the proclamation proceedings.

8. It is the petitioner's case that shortly thereafter, in March 2020,



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the COVID-19 pandemic resulted in global lockdowns, including stringent travel restrictions imposed by the Australian Government, which prevented him from travelling to India. It is stated that on 20.06.2020, the petitioner addressed an email to the CBI apprising it of the facts of the case and expressing his willingness to cooperate with the investigation, while also furnishing contact details of his counsel. Notices under Section 160 of the Cr.P.C. were issued to the petitioner by the Investigating Officer (I.O.), Sh. Avinash Kumar, in *RC 0003* on 28.12.2020, which he complied with. Further, in *RC 0002*, notices were issued to him on 15.01.2021 and again on 15.04.2021 through WhatsApp by the I.O., Ms. Neelam Singh, directing him to furnish documents, which were duly supplied by the petitioner on 19.01.2021 and 19.04.2021 respectively. The petitioner submits that he had also sought permission from the Australian authorities to travel to India for the purposes of joining investigation; *however*, his request was declined, which fact was communicated to the Investigating Officer. It is contended that the issuance of notices by the CBI through electronic means reinforced his *bona fide* belief that all earlier proceedings, including the proclamation proceedings conducted by respondent no. 3, stood superseded. It is stated that subsequently, the investigation in *RC 0002* was also transferred to the same I.O., Sh. Avinash Kumar, who was investigating *RC 0003*. The petitioner alleges that during telephonic and WhatsApp communications, including a voice call dated 16.04.2021 lasting over 50 minutes, the said I.O. had attempted to compel him to make self-



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incriminating statements and intimidated him.

9. Further, according to the petitioner, international travel restrictions were lifted in November 2021; however, no notice was issued thereafter requiring him to appear in India. It is alleged that despite being in continuous communication with the I.O., the petitioner was neither informed about the filing of the charge-sheet in *RC 0002* in September, 2021 nor about the fact that he had been shown as an *absconder* therein. The petitioner states that on 22.11.2021, when the I.O. inquired about his return to India, he indicated his intention to approach this Court in terms of the liberty granted earlier. However, even at that stage, no disclosure was made regarding the charge-sheet or his status as an absconder. It is further stated that on 01.02.2022 and 02.02.2022, the I.O. made WhatsApp video calls to the petitioner seeking certain documents, purportedly in relation to *RC 0003*. Upon consulting his counsel, the petitioner requested that a formal notice be issued; however, no response was received.

10. The petitioner submits that it was only on 02.02.2022 that he came to know that the charge-sheet in *RC 0002* had already been filed in September 2021, that he had been declared an absconder, and that the learned Trial Court had directed recording of prosecution evidence under Section 299 of Cr.P.C. in his absence. It is stated that the petitioner applied for certified copies of the proclamation proceedings on 16.02.2022, which were supplied on 29.03.2022 after the file remained untraceable for some time. Upon perusal thereof,



the petitioner claims that the proceedings were conducted in violation of settled legal principles, including the guidelines laid down by this Court with respect to procedure to be followed under Section 82 of Cr.P.C.

11. The petitioner further states that his application seeking inspection of the file was dismissed on 17.02.2022, though his *vakalatnama* was taken on record. Thereafter, he moved an application seeking recall of proclamation orders dated 01.05.2019, 30.08.2019, 18.11.2019 and 13.12.2019; *however*, the same was dismissed by the learned Trial Court on 13.04.2022 without any reasoning.

12. It is stated that in RC 0002, proceedings under Section 299 of Cr.P.C. have been undertaken and prosecution evidence has been recorded in his absence, whereas in RC 0003, the learned Special Court has taken cognizance of the charge-sheet and summoned the accused persons *vide* order dated 18.05.2022.

13. On the aforesaid basis, the petitioner challenges the order dated 13.12.2019 declaring him a proclaimed person, as well as all consequential proceedings arising therefrom.

Reply filed by CBI

14. In the reply filed on behalf of respondent no. 1/CBI, it has been submitted that the present petition is devoid of merit, has been filed on frivolous grounds. It is contended that the petition is not maintainable, inasmuch as the issue sought to be raised already



stands concluded by order dated 09.01.2020 passed by this Court in W.P. (Crl.) No. 1543/2019. In this regard, it is pointed out that the petitioner had earlier filed Crl. M.A. No. 139/2020 seeking setting aside of the order dated 18.11.2019, whereby his application for recall of proclamation proceedings under Section 82 of the Cr.P.C. had been dismissed. While deciding the said application, this Court, *vide* order dated 09.01.2020, had observed that there was no ground to interfere with the order dated 18.11.2019 and had categorically held that proceedings under Section 82 of the Cr.P.C. could not be recalled without the petitioner appearing before the concerned Magistrate, though liberty was granted to seek recall upon such appearance. It is thus contended that the present petition, raising the same issue, is not maintainable and amounts to seeking a review of the order dated 09.01.2020, which is impermissible in law. It is further submitted that, despite the aforesaid observations of this Court, the petitioner has till date not appeared before the concerned Magistrate, which is a pre-condition for seeking recall of proclamation proceedings.

15. On merits, it is submitted that the investigation conducted by the CBI was fair, professional and transparent, and culminated in filing of the charge-sheet before the Court of the learned CMM, Rouse Avenue Courts. It is contended that, on the basis of statements of prosecution witnesses and material collected during investigation, a *prima facie* case is made out against the petitioner for commission of offences under Sections 376/506 of the IPC. It is further submitted



that, pursuant to directions of this Court dated 09.01.2020, the CBI had taken over the investigation in both the FIRs. It is stated that during investigation, the petitioner was found to be absconding and deliberately evading the process of law. Accordingly, Non-Bailable Warrants (NBWs) were issued against him on 01.05.2019, followed by issuance of Look Out Circular on 24.05.2019. Thereafter, proceedings under Section 82 of the Cr.P.C. were initiated on 30.08.2019, and ultimately, the petitioner was declared a proclaimed person *vide* order dated 13.12.2019 passed by the learned CMM Saket Court.

16. It is further submitted that despite issuance of notices and repeated efforts, including telephonic communications, the petitioner never physically joined the investigation and did not cooperate with the investigating agency. It is contended that even after registration of the case by the CBI on 12.02.2020, and prior to the imposition of COVID-19 lockdown in March 2020, the petitioner did not appear before the I.O. It is thus submitted that since the registration of FIR No. 162/2018 on 28.11.2018 at P.S. Defence Colony, till date, the petitioner has consistently failed to join investigation and has not appeared before the concerned Courts, and therefore, the present petition deserves to be dismissed.

Status Report filed by State

17. In the status report filed on behalf of the State, it has been submitted that on 10.03.2018, a complaint *vide* Diary No. 112-C was



received at P.S. Defence Colony from the prosecutrix, then aged about 18 years, alleging that the petitioner had forcibly established sexual relations with her on the same day between 5:00–5:30 PM at Hotel Swagath, Malviya Nagar, and had thereafter attempted to persuade her by professing love, giving her ₹1000/- and a box of chocolates. It is stated that after leaving the hotel, the prosecutrix had informed her aunt (*maasi*) and both of them had approached the police station. However, they had expressed a desire to first consult family members, and accordingly, the complaint was kept pending. It is further submitted that on 12.03.2018, the prosecutrix along with her family members had again approached P.S. Defence Colony, and the petitioner was also called to the police station. It is stated that both parties had entered into a compromise and submitted written representations withdrawing their respective complaints.

18. It is stated that on 13.03.2018, a WhatsApp message was received in the Vigilance Branch of Delhi Police from Dr. Bhavisha Mehta, wife of the petitioner, alleging that the petitioner had been illegally detained at P.S. Defence Colony in a false rape case and that police officials, in connivance with the prosecutrix, were demanding ₹1.5 crores for not registering an FIR. The said complaint was recorded and entrusted for enquiry; *however*, upon telephonic verification, the petitioner denied the allegations, and the complaint was subsequently withdrawn.

19. It is further submitted that the petitioner left India on 17.03.2018. Thereafter, upon reaching Australia, he lodged another



complaint with the Delhi Police Control Room alleging that he had been falsely implicated and that money had been extorted from him by police officials. The said complaint was enquired into by the Vigilance Branch, and on the basis of the enquiry, the FIR No. 281/2018, dated 02.11.2018, was registered for offence under Sections 384/120B of the IPC. It is further submitted that the prosecutrix subsequently filed an application under Section 156(3) of the Cr.P.C., pursuant to which FIR No. 162/2018, for offence under Sections 376/506 of IPC, was registered against the petitioner.

20. It is stated that earlier during investigation by the police, efforts were made to apprehend the petitioner; *however*, as he was absconding, he could not be arrested. Consequently, after execution of NBWs and initiation of proceedings under Sections 82 and 83 of the Cr.P.C., the petitioner was declared a proclaimed person *vide* order dated 13.12.2019 passed by the learned CMM, Saket Court. A Look Out Circular was also issued against him. Eventually, pursuant to order dated 09.01.2020 passed in W.P. (Crl.) No. 1543/2019, investigation in both these FIRs was transferred to CBI by this Court.

Objections to the Status Report

21. The petitioner thereafter filed objections to the status report submitted by the State, wherein it has been contended that the entire proclamation proceedings were conducted by respondent no. 3 and the same have been challenged by the petitioner as being malicious and contrary to settled principles of law since material and relevant



facts were deliberately concealed from the Court of the learned CMM Saket Court, which led to the passing of the proclamation order dated 13.12.2019. It is specifically alleged that the most crucial fact concealed from the learned CMM was that the petitioner, being an Australian citizen, had been residing in Australia since March 2018, and despite such knowledge, respondent no. 3 continued to serve summons at his Malviya Nagar address in Delhi, where he was not residing. Further, no effort was made to serve the petitioner through proper channels, including through the Ministry of External Affairs, which would have been the appropriate procedure in the given circumstances.

22. It is contended on behalf of the petitioner that the status report filed by the State is conspicuously silent on the manner in which the proclamation proceedings were conducted. Moreover, it has not been disclosed as to on what addresses the petitioner was allegedly served, and there is no response to the legal issues raised in the petition. It is also stated that respondent no. 3 has failed to disclose whether the proclamation order dated 13.12.2019 was brought to the notice of this Court during the hearing on 09.01.2020, in W.P. (Crl.) No. 1543/2019, and that such non-disclosure amounts to material concealment, which has adversely affected the petitioner's fundamental rights and liberty.

CRL.M.A. 14550/2024 filed by the petitioner

23. During the pendency of the present petition, the petitioner filed



an application being CRL.M.A. 14550/2024, seeking setting aside of the Look-Out Circular (LOC) issued against him, so as to enable him to travel to India and appear before the learned Special Judge, Rouse Avenue, for the purpose of tendering evidence in the case titled ‘CBI vs. Vijay Kumar & Ors.’, bearing CBI Case No. 7/2022 (RC 0003), in which he is the complainant. In this regard, it is stated that in the said case, the learned Special Judge, after recording a *prima facie* finding regarding the involvement of the accused persons, including the prosecutrix (arrayed as accused no. 7), framed charges *vide* a detailed order. Thereafter, *vide* order dated 28.03.2024, the learned Special Judge directed the presence of the petitioner for the purpose of recording his testimony as a prosecution witness, and listed the matter for 14.05.2024.

24. The petitioner contends that the only impediment preventing him from appearing before the learned Special Judge is the subsisting Look-Out Circular, which, according to him, emanates from the allegedly illegal proclamation proceedings conducted by respondent no. 3 and continued thereafter.

CRL.M.A. 5983/2025 filed by the petitioner

25. Another application being CRL.M.A. 5983/2025, was also filed during the pendency of present petition, wherein it has been stated that respondent no. 1/CBI, despite being aware that the petitioner had already challenged the proclamation proceedings by way of present petition, moved an application in the case titled ‘*State*



vs. Manish Popli @ Aashu' (CBI Case No. 22/2021), pending before the Court of the learned CJM, Rouse Avenue Courts, seeking issuance of warrants of arrest against the petitioner for the purposes of initiating extradition proceedings under the Extradition Treaty between India and Australia. It is stated that *vide* order dated 18.01.2025, the learned CJM allowed the said application, thereby enabling respondent no. 1 to initiate extradition proceedings against the petitioner. The petitioner contends that such action is arbitrary and prejudicial, and violates his fundamental rights, particularly when the legality of the proclamation proceedings, which form the very basis of such coercive steps, is already under challenge before this Court. It is further submitted that the petitioner has not been supplied with a copy of the said order dated 18.01.2025, nor permitted to inspect the court record on account of his being declared an *absconder*, and therefore, the said order could not be annexed to the present application. It is thus contended that the petitioner ought not to be treated as a fugitive, and the initiation of extradition proceedings, in the given circumstances, would cause serious prejudice to him.

SUBMISSIONS BEFORE THE COURT

26. The learned senior counsel appearing for the petitioner argues that the entire proclamation proceedings are vitiated in law, having been conducted in violation of the mandatory procedure prescribed under Sections 82 and 83 of the Cr.P.C. It is argued that the



petitioner, being an Australian citizen residing abroad since March 2018, was never duly served through legally recognized modes, including through the Ministry of External Affairs, and thus, the very foundation of declaring him a proclaimed person is illegal. It is contended that material facts regarding the petitioner's residence abroad were deliberately concealed from the learned CMM, Saket Court, resulting in grave prejudice. The learned senior counsel further submits that the petitioner has, at all times, cooperated with the investigation conducted by the CBI, including responding to notices and furnishing documents, and was prevented from physically appearing due to COVID-19 travel restrictions. It is argued that the petitioner cannot be termed an absconder or fugitive in such circumstances. It is further submitted that continuation of coercive measures such as LOC and initiation of extradition proceedings, despite the challenge to proclamation proceedings being pending, is arbitrary and violative of Articles 20 and 21 of the Constitution of India. It is contended that the petitioner is willing to appear before the concerned Court, subject to appropriate protection, and therefore, the impugned proclamation order and consequential proceedings deserve to be set aside.

27. On the other hand, the learned SPP appearing for the CBI opposes the petition and argues that the petitioner has consistently evaded the process of law and has deliberately not appeared before the concerned Courts despite repeated opportunities. It is contended that this Court, *vide* order dated 09.01.2020, has already held that



proclamation proceedings cannot be recalled unless the petitioner first appears before the Courts below, and the present petition is an attempt to circumvent the said observations. It is further submitted that the petitioner has never physically joined investigation and has remained outside the jurisdiction of the Court to avoid legal proceedings, thereby justifying the issuance of NBWs, proclamation, and LOC. The learned SPP argues that the investigation conducted by the CBI is fair and has resulted in filing of a charge-sheet, wherein sufficient material exists to proceed against the petitioner for offences under Sections 376/506 of IPC. It is also submitted that the petitioner was aware of the proceedings pending before the Courts and has actively participated through legal remedies. Lastly, it is contended that the initiation of extradition proceedings is in accordance with law and necessitated by the petitioner's continued non-appearance, and no interference is called for by this Court.

ANALYSIS & FINDINGS

28. In the present case, the record reflects that the genesis of the dispute lies in an incident dated 10.03.2018, when the prosecutrix alleged that the petitioner had committed rape upon her at Hotel Swagath, Malviya Nagar, New Delhi. It is stated that on the same day, the prosecutrix, along with her aunt, approached P.S. Defence Colony and submitted a complaint in this regard; however, they expressed that they did not wish to pursue immediate legal action and wanted to deliberate upon the matter with their family members.



Subsequently, on 12.03.2018, the petitioner was called to the police station, where the prosecutrix and her relatives were also present, and the matter was stated to have been compromised, with written representations being submitted by the parties.

29. On the other hand, it is the case of the petitioner that the allegations against him are false and that he was, in fact, subjected to coercion and extortion by the prosecutrix, her relatives, and certain police officials. According to him, he was called to the police station, where he was pressurized and compelled to arrange substantial amounts of money for his release, and that the entire episode was part of a larger “honey-trap” conspiracy.

30. It is not in dispute that shortly thereafter, the petitioner left India on 17.03.2018 and returned to Australia, where he is stated to be a permanent resident. Thereafter, on the complaint of petitioner, FIR No. 281/2018, for offence under Sections 120B/384 of IPC, came to be registered on 02.11.2018, pursuant to a vigilance enquiry. Thereafter, the prosecutrix also filed an application under Section 156(3) of Cr.P.C., leading to registration of FIR No. 162/2018, for offence under Sections 376/506 of IPC, on 28.11.2018 against the petitioner.

31. Admittedly, the proclamation proceedings under Sections 82/83 of Cr.P.C. were conducted between May 2019 and December 2019 i.e. when the petitioner was in Australia. The orders passed by the learned CMM, Saket Court, in this regard are extracted



hereunder:

13.12.2019

x x x

An application for declaring the accused Manish Popli as Proclaimed Person has been moved by the IO.

Statement of process server CW1 HC Yaspal Singh qua execution of process u/s 82 Cr.P.C issued against accused Manish Popli, S/o Sh. Subhash Popli, R/o E-8/6, Ground Floor, Malviya Nagar, New Delhi has been recorded separately.

In view of the statement of process server, I am of the opinion that accused Manish Popli, S/o Sh. Subhash Popli, R/o E-8/6, Ground Floor, Malviya Nagar, New Delhi is deliberately concealing himself and he has absconded.

In these circumstances, accused Manish Popli, S/o Sh. Subhash Popli is hereby declared **proclaimed person**.

18.11.2019

Application for recalling of proclamation under section 82 Cr.P.C.

x x x

Heard. Perused.

In the present, the alleged offence committed by the accused is serious in nature. Further, the grounds taken in the application are not satisfactory. The accused has also not appeared. Hence, the application stands dismissed. Copy of order given dasti.

30.08.2019

x x x

An application has been moved by the IO W/SI Manju Bala seeking issuance of process under section 82 CrPC against accused Manish Popli. It is stated in the application that despite issuance of NBW's against the aforesaid accused, the same could not be executed as it was informed by the father of the accused that the accused is presently staying in Australia. Further, LOC has been opened against the accused. Further, during the investigation several raids were conducted for the



search of accused person on 23.07.2019, 27.07.2019 and 03.08.2019. However, he could not be traced despite sincere efforts. It is further stated that the accused is deliberately evading himself from the arrest hence process under section 82 CrPC is required to be issued against him.

Heard. Perused.

Considering the submissions made and the contents of the application, I am of the considered opinion that the accused is deliberately evading himself from arrest. Hence, application of IO is allowed.

Issue process under section 82 Cr.P.C against accused Manish Popli through IO concerned for 30.10.2019. Copy of order be given dasti.

23.08.2019

x x x

IO alongwith police filed and move an application seeking issuing process of u/s 82 CrPC against Manish Popli S/o Subhash Popli.

Heard and perused.

Issued the process u/s 82 CrPC against above accused.

20.07.2019

x x x

An application for issuance of NBW against accused Manish Popli has been moved by the IO.

Heard. Perused.

It is stated by the IO that she has visited the address of accused Manish Popli on 18.03.2019, 23.03.2019, 04.07.2019, 06.07.2019 and so many other times. It seems that accused is deliberately concealing himself and he has absconded and he cannot be apprehended without due process of law.

In these circumstances and submissions made, let NBW's be issued against the accused for 05.08.2019.

01.05.2019

x x x

An application for issuance of NBW against accused Manish



Popli has been moved by the IO

Heard. Perused.

It is stated by the IO that she had visited the address of accused Manish Popli on 18.03.2019, 23.03.2019, 29.03.2019 and so many other times. It seems that accused is deliberately concealing himself and he has absconded and he can be apprehended without the due process of law.

In these circumstances and submissions made, let NBW be issued against the accused for 10.07.2019

32. However, during this very period, the petitioner had already approached this Court by filing W.P. (Crl.) No. 1543/2019 in May 2019, seeking, *inter alia*, transfer of investigation and appropriate directions in respect of FIR No. 162/2018 as well as the connected FIR No. 281/2018. In the said writ petition, the petitioner had specifically disclosed his residential address in Australia in the memo of parties. Not only this, the concerned police officials, who were then investigating the matter and at whose instance the proclamation proceedings were being initiated and carried forward, were themselves arrayed as respondents in the said writ petition and were, thus, fully aware of the petitioner's residence abroad. Even otherwise, in the status report filed before this Court in the present proceedings, the State has fairly acknowledged that the petitioner had left India in March 2018 and was residing in Australia. This clearly demonstrates that the investigating agency was conscious of the petitioner's location outside India at the relevant time.

33. However, it is clear from record that despite having knowledge of the petitioner's residence abroad, no effort was made by the



investigating agency to serve summons or warrants upon him at his Australian address. There is nothing on record also to show that any steps were taken to effect service through the Ministry of External Affairs or through any other legally recognized mode for service upon a person residing outside India. Equally, there is no material to indicate that the learned CMM was apprised of the fact that the address of the petitioner, who was a permanent resident of Australia and was not residing at the address in Delhi where service was purportedly effected, was available with the police officials since the same had been mentioned in the writ petition filed before this Court itself.

34. In this context, reference may be made to the decision of a Coordinate Bench of this Court in *Sunil Kumar v. State: 2001 SCC OnLine Del 1020*, wherein it was observed as under:

“9. The orders clearly show that while issuing process under Section 82/83 Cr.P.C., the court did not record satisfaction that the warrants against the petitioner could not be served or that he was concealing himself. In fact, no effort was made to serve the petitioner at the address given in the FIR itself. There is nothing to show that summons were ever attempted to be served on the petitioner through the Ministry of External Affairs at Muscat. The orders appear to have been passed without any application of mind.”

35. The aforesaid observations squarely apply to the facts of the present case, where despite knowledge of the petitioner’s presence abroad, no meaningful steps were taken to ensure proper service before initiating proclamation proceedings.



36. The facts of the present case assume further significance in view of the subsequent conduct of the officers/I.O. of CBI, after the investigation was transferred to the CBI pursuant to order dated 09.01.2020 passed by this Court. Admittedly, the proclamation proceedings had been initiated and culminated in the petitioner being declared a proclaimed person on 13.12.2019. However, it is the specific case of the petitioner, which is also discernible from the records and the circumstances of the case, that the petitioner was not informed about the passing of order dated 13.12.2019 declaring him proclaimed person.

37. In this regard, this Court notes that after the matter was taken over by the CBI, it is apparent that at no point of time was the petitioner informed that he had already been declared a proclaimed person. On the contrary, the CBI continued to engage with the petitioner in the course of investigation, without disclosing such a crucial fact. The record reflects that on 20.06.2020, the petitioner himself addressed an email to the CBI, providing details of his case, contact particulars of his counsel, and expressly stating his willingness to cooperate with the investigation. Thereafter, the I.O. issued notices under Section 160 of Cr.P.C. to the petitioner, including notice dated 28.12.2020 in RC 0003, which the petitioner complied with after seeking reasonable time. Further, in RC 0002, notices were issued to the petitioner on 15.01.2021 and again on 15.04.2021 through WhatsApp by the I.O., Ms. Neelam Singh, directing him to furnish certain documents. The petitioner duly



complied with both notices by providing the requisite documents on 19.01.2021 and 19.04.2021 respectively.

38. It is also pertinent to note that the petitioner had applied to the Australian authorities seeking permission to travel to India for the purposes of joining investigation; however, the same was declined *vide* email dated 22.03.2021 issued by the Australian Department of Home Affairs. The said document has been placed on record. Thus, the petitioner's inability to physically appear in India during this period cannot be viewed in isolation, but must be seen in the backdrop of global travel restrictions imposed during the COVID-19 pandemic.

39. Even thereafter, the communication between the petitioner and the I.O. continued. As late as November 2021, the I.O. was in contact with the petitioner, inquiring about his return to India, and similar interactions took place in February 2022 through WhatsApp calls. Significantly, at no stage during these interactions was the petitioner informed that he had already been declared a proclaimed person or that a charge-sheet had been filed showing him as an absconder.

40. Further, it later transpired that a charge-sheet had already been filed in September 2021 declaring the petitioner as an *absconder*. This position appears contradictory, inasmuch as the I.O. of the case, on one hand, was in active communication with the petitioner and issuing notices under Section 160 of Cr.P.C., while on the other hand treating him as an absconder. It is pertinent to note that issuance of



notice under Section 160 of Cr.P.C. presupposes that the person is required to join investigation, and is not evading the process of law in a manner warranting declaration as an absconder.

41. In this context, the conduct of the petitioner does not reflect that of a person absconding from justice. Rather, the material on record indicates that he remained in continuous contact with the I.O., complied with notices issued to him, and expressed willingness to participate in the investigation. The fact that he joined the investigation through electronic means during the pandemic, and placed on record the refusal of travel permission by the Australian authorities, further supports his explanation for non-appearance in person.

42. In such circumstances, the very basis for treating the petitioner as a proclaimed person becomes doubtful. A person who is in continuous communication with the investigating agency and is responding to its directions cannot, in the ordinary course, be said to be absconding or concealing himself from the process of law. Moreover, the failure of the investigating agency to inform the petitioner about the proclamation proceedings, despite being in regular contact with him, assumes significance and lends credence to the petitioner's contention that he was kept unaware of the same.

43. This Court is also of the view that the inability of the petitioner to travel to India during the relevant period, owing to restrictions imposed by the Australian authorities during the COVID-19



pandemic, cannot be held against him, particularly when he had demonstrated willingness to join investigation and had taken steps in that regard.

44. This Court also deems it appropriate to consider the effect of the order dated 09.01.2020 passed by a Coordinate Bench of this Court in W.P. (Crl.) No. 1543/2019. In the said order, it was *inter alia* observed as under:

“24. The petitioner has also filed an application (CRL.MA 139/2020), *inter alia*, praying that the order dated 18.11.2019 passed by the learned MM in FIR No. 162/2018 be set aside. By the said order dated 18.11.2019, learned MM had rejected the petitioner’s application for recalling of the proclamation under Section 82 of the Cr.P.C. on the ground that the petitioner had not appeared before the learned MM.

25. This Court finds no reason to interfere with the said order. Plainly, the proceedings under Section 82 of the Cr.P.C. cannot be cancelled without the petitioner appearing before the concerned Magistrate. However, it is clarified that this order would not preclude the petitioner from seeking recall of the said proceedings initiated against him after the petitioner has appeared before the concerned Magistrate.

26. This Court is also not persuaded to set aside the Look Out Circular issued against the petitioner as the petitioner has not joined the investigations. However, the petitioner is at liberty to apply for the same after finalising his travel plans to India.”

45. A perusal of the said order reflects that the petitioner had, at that stage, challenged the order dated 18.11.2019 whereby his application seeking recall of proclamation proceedings had been dismissed. This Court, while declining to interfere with the said order, had observed that proceedings under Section 82 of Cr.P.C. could not be recalled without the petitioner appearing before the



concerned Magistrate, though liberty was granted to him to seek such relief upon appearance. The Court had also declined to set aside the Look-Out Circular at that stage, while granting liberty to the petitioner to apply for the same after finalising his travel plans to India.

46. However, two significant aspects emerge from a careful reading of the said order. *Firstly*, the order dated 13.12.2019, whereby the petitioner had been declared a proclaimed person, was not under challenge before the Coordinate Bench at that time. Secondly, and more importantly, the said order does not reflect that the factum of the petitioner having already been declared a proclaimed person on 13.12.2019 was brought to the notice of the Court. The observations in the order dated 09.01.2020 are confined to the order dated 18.11.2019, and there is no reference to the subsequent proclamation order dated 13.12.2019.

47. In such circumstances, it cannot be said that the legality of the order dated 13.12.2019 stands concluded by the order dated 09.01.2020. The present challenge, therefore, cannot be construed as an attempt to seek review of the earlier order, but is a substantive challenge to the validity of the proclamation proceedings culminating in the order dated 13.12.2019.

48. *Secondly*, it is also relevant to note that although liberty had been granted to the petitioner to appear before the concerned Court and seek recall of the proceedings, the said liberty has to be



appreciated in the factual context. Immediately thereafter, in March 2020, the COVID-19 pandemic resulted in unprecedented global restrictions on travel, and the petitioner, being in Australia, was unable to return to India despite his stated willingness to do so. As already noted hereinabove, even his application seeking permission to travel was declined by the Australian authorities.

49. Thus, the petitioner's non-appearance before the concerned Court, in the interregnum, cannot be viewed as deliberate or contumacious. In the peculiar facts of the present case, the inability of the petitioner to avail the liberty granted by this Court cannot be held against him.

50. In view of the aforesaid discussion, and for the reasons already recorded, this Court is of the considered opinion that the initiation and culmination of proceedings under Section 82 of Cr.P.C., resulting in the petitioner being declared a proclaimed person *vide* order dated 13.12.2019, cannot be sustained in law.

51. Accordingly, the order dated 13.12.2019 passed by the learned CMM (South-East), Saket Courts, declaring the petitioner as a proclaimed person, along with all consequential proceedings arising therefrom, are hereby set aside.

52. Consequently, the Look-Out Circular issued against the petitioner, as well as any coercive steps taken pursuant to the impugned proclamation proceedings, including proceedings under Sections 82/83 Cr.P.C. and any action treating the petitioner as



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proclaimed person, also stand quashed.

53. However, it is made clear that the petitioner shall appear before the concerned Trial Court(s) within a period of four (04) weeks from today and shall join the proceedings in accordance with law. The Trial Court shall thereafter proceed with the matter uninfluenced by any observations made in the present judgment.

54. The petition, along with pending application, is disposed of in above terms.

55. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MARCH 18 2026/A

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