

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

(287)

CRM-M-33607-2016

Decided on: October 26, 2016.

Arvinder Singh

.... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. R.S. Rai, Sr. Advocate, with
Mr. Mohinder S. Nain and Mr. Deepinder Brar, Advocates,
for the petitioner.

Mr. K.S. Nalwa, Addl. A.G., Punjab.

M.M.S. BEDI, J (ORAL)

The petitioner has filed this application under Section 482 Cr.P.C challenging order dated 19.07.2016 declaring the petitioner a proclaimed offender.

With the assistance of learned counsel for the petitioner as well as learned State counsel, I have gone through the police record which indicates that the proclamation was issued by the Chief Judicial Magistrate, Ferozepur on 18.04.2016 under Section 82 of Cr.P.C which was received by the police on 03.05.2016. The date of appearance was 05.05.2016 as such the petitioner did not get notice of 30 days as required by the statute. The proclamation in the present case was effected on 04.05.2016 regarding which statement of ASI Jaswinder Singh was recorded in the Court on 05.05.2016. Finding that period of 30 days had not expired, the Chief Judicial Magistrate adjourned the proceedings till 19.07.2016. On 19.07.2016, the petitioner was declared proclaimed offender on expiry of

statutory period of 30 days. It is apparent from the record that the petitioner did not have any notice for appearance on 19.07.2016 on which date he was declared a proclaimed offender.

30 days clear notice as envisaged in the statute, is not a mere formality but it is mandatory that period of 30 days be given to a person before he is declared proclaimed offender, to appear before the Court. There is violation of provision of Section 82 of Cr.P.C as such the order declaring the petitioner a proclaimed offender on 19.07.2016 is illegal and is thus set aside.

As the petitioner is no more a proclaimed offender, it will be open to him to seek legal remedy available to him in accordance with law.

The petition is allowed.

(M.M.S. BEDI)
JUDGE

October 26, 2016

harsha

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No