

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

**CRM-M No. 42995 of 2015  
Date of decision: 04.11.2016**

**Rajwinder Singh**

**...Petitioner**

**Versus**

**State of Punjab**

**...Respondent**

**CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. S. S. Salar, Advocate  
for the petitioner.

Mr. Mikhail Kad, AAG, Punjab  
for the respondent-State.

Mr. Kawaljyot Singh, Advocate  
for the informant.

**JAISHREE THAKUR, J. (Oral)**

The instant petition has been filed for quashing of order dated 28.02.2006 (Annexure P-3) declaring the petitioner as an proclaimed offender in proceedings initiated under FIR No. 149 dated 22.06.2005 registered under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code at Police Station Kotwali, Barnala, District Barnala.

Briefly, the dispute arose between the complainant party and the petitioner leading to the registration of the FIR under the aforesaid sections.

It is contended by the counsel for the petitioner that as the petitioner was not living in the village and was a permanent resident of S.A.S. Nagar, he was not served with any warrant or summon, therefore, he was not able to appear before the Court. As the petitioner was not appearing, an order dated 28.01.2006 came to be passed wherein fresh

proclamation was to be issued again for 28.02.2006. Since the petitioner did not appear on the date fixed i.e. 28.02.2006, he was declared as an proclaimed offender on that very day itself. It is contended by the counsel for the petitioner that the said order is liable to be set aside as there is non-compliance of Section 82 Cr.P.C.

Per contra, counsel for the State submits that there is adequate compliance of Section 82 Cr.P.C. and hence there is no just cause for interference by this Court.

I have heard learned counsel for the parties and also gone through the record.

Admittedly, Section 82 Cr.P.C. which specifies that 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.

In the instant case, by an order dated 28.02.2006, the Court felt the necessity of issuing proclamation to secure the presence of the accused Rajwinder Singh who had not put in appearance despite warrants having been issued. The publication itself was signed on 01.02.2006 and proclamation by affixation was made on 03.02.2006. As per the clear provisions of Section 82(1) Cr.P.C., a clear period of 30 days is to be given for appearance in the Court which in the instant case has not been adhered to. The order regarding proclamation was issued on 28.02.2006. The

proclamation itself was signed on 01.02.2006. Therefore, by asking the petitioner to appear on 28.02.2006, the clear period of 30 days had not expired till then. Resultantly, the proclamation issued itself is not in consonance with the provisions of the Act. Therefore, the impugned order dated 28.02.2006 declaring the petitioner as an proclaimed offender is not as per law and is liable to be set aside.

Resultantly, the above noted petition is allowed and the order dated 28.02.2006 declaring the petitioner as an proclaimed offender is quashed.

Petition stands disposed of accordingly.

**November 04, 2016**  
*Ansari*

**(JAISHREE THAKUR)**  
**JUDGE**

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*